

We thought you would find the following information helpful if you own a small business and are impacted by Covid-19.

## SECTION 139 DISASTER RELIEF PAYMENTS

### General Rule —

Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

### Qualified Disaster Relief Payment Defined —

For purposes of this section, the term “qualified disaster relief payment” means any amount paid to or for the benefit of an individual—

- to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,
- to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,
- by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or
- if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

### Coordination With Employment Taxes —

For purposes of chapter 2 and subtitle C, qualified disaster relief payments and qualified disaster mitigation payments shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

Employers can continue to pay employees for reasonable personal, family and living expenses if they are unable to work. The pay is not subject to FICA or Medicare tax, is not reported as wages on the employees W2 and is a tax deductible expense for the employer. There is no application process, you just need a written plan to repay employees. If you have regular independent contractors that work for you Section 139 will apply to them also.

More information on Sec 139 is at: <https://www.journalofaccountancy.com/issues/2018/mar/irs-sec-139-disaster-relief.html>

## FAMILY MEDICAL LEAVE ACT

Small employers with under 50 employees are typically exempt from Family Medical Leave Act requirements, but can still choose to cover their employees under FMLA. Public Health Emergency (**PHE**) paid family and medical leave under the FMLA will be slightly different from the normal FMLA paid leave. Here are the details:

## Eligibility

- Employees are eligible for two-thirds of their regular pay based on the hours they'd normally work.
- Benefit cannot exceed \$200 per day or the aggregate of \$10,000 and 50 days.
- Variable-hour employees will be eligible based on the average number of hours they worked in the six months prior to the start of their leave.
- If the employee didn't work the last six months, then it will be based on the amount that was anticipated when they were hired.

Employees are eligible if they have been employed for at least 30 days and are unable to work because of the need to care for a child under 18 years of age whose school or place of care has been closed, or if they are unavailable due to a COVID-19 PHE. Just like the emergency paid leave, employees who are healthcare providers and emergency responders are not eligible for this benefit.

Employers, including self-employed individuals, can qualify for tax credits to offset the cost of both emergency paid leave and paid leave under the FMLA. Any PHE paid leave under the FMLA can be 100% paid for as a tax credit on an employer's share of Social Security taxes on a quarterly basis. The amount per paid day for an employee shall not exceed \$200 or \$10,000 maximum for the year.

The quarterly credit cannot exceed the employer's share of Social Security taxes in the quarter. Excess credit can be used by the business as an overpayment against future tax.

Health plan expenses paid by the employer while the employee is on leave count toward paid wages to the employee.

More information on PHE under FMLA is at: <https://gusto.com/blog/people-management/families-first-coronavirus-response-act>

## Small Business Administration

The U.S. Small Business Administration is offering designated states and territories low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19). Upon a request received from a state's or territory's Governor, SBA will issue under its own authority, as provided by the Coronavirus Preparedness and Response Supplemental Appropriations Act that was recently signed by the President, an Economic Injury Disaster Loan declaration.

Any such Economic Injury Disaster Loan assistance declaration issued by the SBA makes loans available statewide to small businesses and private, non-profit organizations to help alleviate economic injury caused by the Coronavirus (COVID-19). This will apply to current and future disaster assistance declarations related to Coronavirus.

- SBA's Economic Injury Disaster Loans offer up to \$2 million in assistance and can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.
- These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75% for small businesses. The interest rate for non-profits is 2.75%.
- SBA offers loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower's ability to repay. (loans to cover payroll and continuing paying employees may qualify to have up to three fourths of the loan forgiven)

Business with current SBA loans can receive automatic deferral of repayment until December 31, 2020.

Apply for SBA disaster relief at <https://www.sba.gov/funding-programs/disaster-assistance>

## Other programs currently in place

- The Secretary of the Education will be waiving interest on all student loans held by the Federal Government.
- Facebook has launched a small business grants program offering \$100 million in cash grants and ad credits for up to 30,000 small businesses
- UberEats is waiving delivery fees for all orders from independently-owned restaurants to keep them in business as many cities begin to mandate closure of storefronts.
- Amazon created a \$5 million Neighborhood Small Business Relief Fund to provide cash grants to local small businesses that will be impacted by fewer customers due to COVID-19. The fund is intended to support small businesses with fewer than 50 employees or less than \$7 million in annual revenue located near Amazon's Seattle office weather the outbreak.
- Google has rolled out free access to its advanced Hangouts Meet video-conferencing capabilities to all G Suite customers until July 1 so businesses can stay connected with their teams and vendors
- Obviously the big one, the tax filing deadline has been postponed to July 15. If you owe income tax you can wait to pay on July 15 without additional penalties or interest.

## Programs not in effect but anticipated

**Remember the following is not yet approved legislation, so it is based on proposed legislation and a little speculation on the logistics.**

Stimulus checks-

This stimulus check is a refundable tax credit for 2020, being paid to you early. You will have to claim in on your 2020 taxes, and possibly pay it back if:

- Your earnings in 2020 exceed the AGI limits
- You received an incorrect amount based on household or filing (such as you're now divorced and should have received just a single check, etc.)

Adults will get \$1,200 each (\$2,400 for married couple filing jointly) and \$500 for each child (*children are qualifying children according to IRS rules claimed in the household under 17 years old*).

You also cannot be claimed as a dependent on someone else's return.

The benefit phaseout starts at:

- \$75,000 in adjusted gross income for singles
- \$112,500 for heads of household
- \$150,000 for married couples filing jointly

Completely phased out and not check received at \$99,000 AGI for singles and \$198,000 AGI for couples with no children.

The current bill as written requires you to have filed a 2019 tax return or a 2018 return if you haven't filed your 2019 return yet by the time the checks go out, and it would send the benefit checks to the address listed on the tax return. To update your address go to: <https://www.irs.gov/filing/individual/update-my-information>

For those on Social Security as part of retirement or through the Social Security Disability Insurance program can have their Social Security Administration data used directly to claim the stimulus check - no tax return will be required.

The US government continues to work on ways to soften the economic impact of the virus while also fighting the spread of the virus. We are all in this together and I am confident we will find solutions and come out of it possibly changed, but for the better. Stay safe and let us know if we can help.

Wray

Rives CPA PLLC