

## The Coronavirus Aid, Relief, and Economic Securities Act (“CARES Act”)

### Key Takeaways for Small Businesses

- Small Business is defined as a business with fewer than 500 employees. Small Business Administration (“SBA”) guidance on business size is available [here](#).
- **Family First Coronavirus Response Act (“FFCRA”).** The CARES Act amends the Sick Leave Act to provide that an employer is not required to pay an employee more than (1) \$511 per day and \$5,110 total for paid sick leave for self-care, or (2) \$200 per day and \$2,000 total for paid leave to care for a family member. The CARES Act amends the FMLA Expansion Act to provide that an employer is not required to pay an employee more than \$200 per day and \$10,000 total for paid child care leave. An employer may choose to pay an employee more than the daily and aggregate caps created under the CARES Act, but the employer will not receive a tax credit for amounts exceeding the statutory limits. Employers can apply a payroll tax credit, which may be advanced according to forms and instructions provided by the DOL, for required paid sick leave and required paid family medical leave. [Click here for additional information.](#)
- **SBA Paycheck Protection Program.** Small businesses will be able to apply for government-backed forgivable SBA loans to cover qualified expenses associated with: (1) payroll costs for employees and independent contractors earning less than \$100,000 per year, (2) continuation of health care benefits, (3) mortgage interest, rent, and/or utilities payments in force before February 15, 2020, and (4) interest on debt incurred before April 1, 2020. Loans can be forgiven up to the entire principal amount if the borrower demonstrates that it has retained employees for at least six (6) months without reducing their compensation. Loan forgiveness will be reduced based on wage reductions from February 15, 2020 through June 30, 2020. However, employers who laid off workers or reduced compensation as a result of COVID-19 between February 15, 2020 and April 26, 2020 will not have their loan forgiveness reduced if they reverse their workforce reductions by June 30, 2020.
- **Employee Retention Credit.** Small businesses will get a quarterly refundable tax credit for keeping idled workers on their payroll during COVID-19. The business will get a refund equal to 50% of certain qualified wages paid between March 12, 2020 through January 2, 2021. Qualified wages for each eligible employee will not exceed \$10,000 per calendar quarter (i.e. Retention credit cannot exceed \$5,000). There is no limit to the number of employees for which the credit can be claimed, however, it is not available with respect to wages for which the employer received an FFCRA Tax Credit, or if the employer or an affiliate receives a loan under the Paycheck Protection Program. An eligible employer can elect to opt out of the Retention Credit with respect to any calendar quarter.
- **Pandemic Unemployment Compensation.** If employees are laid off or furloughed, the CARES Act has expanded unemployment benefits to pay the amount of regular unemployment compensation payable under each state’s law plus an additional \$600 per week. The expanded benefits will be paid retroactive to January 27, 2020 and expire December 31, 2020. Persons who receive regular state unemployment benefits and exhaust them after 26 weeks, can receive an additional 13 weeks of benefits at \$600 per week. The CARES Act does not cap unemployment benefits at 100% so an employee could receive more than 100% of their previous wages by claiming unemployment. An individual who is able to telework with pay or is receiving paid sick leave or other paid leave benefits is NOT eligible.
- **Delayed Payroll Tax Payments.** The CARES Act allows employers to defer the payment (including the deposit) of payroll taxes for the 2020 calendar year (but beginning after the date of enactment of the CARES Act) until (1) December 31, 2021 for 50 percent of such taxes and (2) December 31, 2022 for the remaining 50 percent of such taxes. This does not apply to small businesses whose loans are forgiven under the Paycheck Protection Program.