

COVID-19: Relief Opportunities & Tax Updates for Employers

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Jeff Coppaken

- Jeff Coppaken is the founder of Coppaken Law Firm, LLC, and is licensed to practice law in Kansas and Missouri
- Jeff's understanding of unique aspects of the business model comes from the decade he spent in sales, marketing, and customer service
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Kyle Knoth

- Kyle Knoth is a Vice President of Commercial Banking at Landmark National Bank
- Kyle has over 10 years of Commercial Banking experience in the Kansas City metro area
- Kyle focuses on assisting small business owners through the use of both conventional and SBA loan products
- He has become one of the most experienced and trusted SBA lenders in the Kansas City market



Shawn Yancy

- Deputy Director, Division of Unemployment Insurance for the Kansas Department of Labor
- Chief of Appeals
- 8 Years in Unemployment Insurance as Unemployment Appeal Hearing officer, quality control program manager, and now as Chief of Appeals and Deputy Director of Unemployment insurance
- Assists with legislative activities, including drafting and testifying



Overview of Relief Opportunities

1. Federal Tax Filing & Payment Deadline Extension
 - Extended federal tax filing and payment deadline to July 15th
 - Does not apply to other taxes (payroll, excise)
2. Families First Coronavirus Response Act (FFCRA)
 - Requires sick leave to be paid to impacted employees and caregivers
 - Payroll tax exemptions and credits for sick leave paid to impacted employees (begins April 2nd)
3. Workforce Reduction / Unemployment Benefits for Workers
 - Unemployment benefits for employees
 - State Shared Work Reduction Program
4. Funding & Cash Flow Opportunities
 - SBA Economic Injury Disaster Loan Program at 3.75%
 - KS Hospitality Relief Fund
 - Suspended business and residential evictions
 - Loan payment deferment and/or interest-only payments
5. Phase 3 of Coronavirus Stimulus Package
 - Expansion of the Coronavirus Aid, Relief and Economic Security (CARES) Act (initial version released March 22nd)
 - Agreed to on March 25th
6. More to come as details are changing daily...

Tax Filing and Payment Updates

- The deadline for 2019 federal tax return filing and payment has been extended to July 15th
- The extension does not apply to all state tax filing and payment deadlines
 - KS and MO filing and payment deadline extended to July 15th
 - Does not apply to state sales and payroll taxes
 - <https://taxfoundation.org/state-responses-to-coronavirus-covid19/>
- The IRA and HSA contribution deadline has been extended to July 15th
- The extended payment deadline applies to Q1 2020 estimated taxes, but not Q2 (yet)
 - The Q1 estimated tax payment due date is now July 15th
 - The Q2 estimated tax payment due date remains June 15th
 - AICPA has issued a letter to the IRS requesting a waiver on all 2020 estimated tax payments through September 15th
 - PROPOSED: Deferral of 2020 federal estimated tax payments to October 15th
 - Watch for states to follow federal

Families First Coronavirus Response Act (FFCRA)

- Requires employers with less than 500 employees to provide emergency paid sick leave to workers affected by COVID-19 and expands family and medical leave
 - The bill authorizes the Secretary of the Department of Labor to issue regulations to (1) exclude certain healthcare providers and emergency responders from the definition of eligible employee and (2) exempt small businesses with fewer than 50 employees when it would jeopardize the viability of the business as a going concern
 - Employees are eligible for up to two weeks of sick leave (full pay for self, 2/3 pay for family care) for illness, quarantine or school closures
 - Employees are eligible for up to 12 weeks of FMLA leave for school closures (10 days unpaid and then up to 10 weeks at 2/3 pay)
 - Emergency paid sick leave covers:
 - Employers with fewer than 500 employees
 - All employees no matter the length of employment (some exclusions may apply)
 - FMLA expansion covers:
 - Employers with fewer than 500 employees
 - Employees who have been employed for at least 30 calendar days
 - Employees who must care for children under the age of 18 in the event of school and place-of-care closures or if care provider is unavailable due to a public health emergency with respect to COVID-19

Families First Coronavirus Response Act (FFCRA) – Emergency Paid Sick Leave

- Paid sick leave will be based on employees' regular compensation, but is capped at a maximum 100% of wages up to \$511 per day (and a total of \$5,110) for employees
 - For part-time employees, paid sick time amounts to the average hours worked over a two-week period
- Ensures paid sick leave covers employees who are unable to telework due to one or more of the following conditions:
 - They are subject to a Federal, State, or local quarantine or isolation order (“isolation order”) related to COVID-19
 - They have been advised by a health care provider to self-quarantine due to concerns related to COVID-19
 - They are experiencing symptoms of COVID-19 and seeking a medical diagnosis

Families First Coronavirus Response Act (FFCRA) – Emergency Family & Medical Leave

- Emergency Family & Medical Leave Expansion
 - Employees caring for a minor child are entitled to 2/3 of their average earnings for up to 10 weeks
 - First 10 days unpaid the up to 10 weeks at 2/3 pay
 - Capped at \$200 per day and a total of \$10,000 per individual
 - Eligibility is limited to employees who are unable to work (onsite or remote) due to their child's school/day care being closed
 - An employee working under quarantine or caring for a family member affected by COVID-19 isn't considered "qualifying needs" for the expanded family & medical leave benefit

FFCRA Payroll Tax Credits

- Emergency paid sick leave mandated by FFCRA is exempt from Social Security taxes otherwise imposed on the employer
- Non-government employers will be entitled to a refundable federal employment tax credit for the entire amount that they pay in paid sick leave
- If you continue an employee's health plan coverage while the employee is on paid emergency sick leave under FFCRA, the credit is increased up to an amount which includes the employer's expense for the health plan coverage
- Payroll tax credits can be claimed on a quarterly basis, equal to 100% of the amount of sick leave wages paid
 - This credit is limited to \$511 a day (\$5,110 total) if taking time off to care for themselves & \$200 a day (\$2,000 total) if the sick leave is to care for someone with COVID-19 or a child whose school/day care was closed
- Employers must increase their gross income for the taxable year by the amount of payroll credit received on income tax filing

FFCRA Payroll Tax Credits (Continued)

- Credits for Sick & Family Leave for Self-Employed Individuals
 - Self-employed workers, independent contractors and gig economy workers can also claim a credit against their regular income taxes
 - This credit covers 100% of daily self-employment income or 67% if an individual is taking care of a child whose school/day care closed
 - The per-day amount is limited to the lesser of daily self-employment income or \$511 per day (\$200 if caring for a child)
 - The number of eligible days is limited to 10 if sick leave for themselves and 50 if related to family leave

KEY TAKEAWAY: THIS REQUIRES COORDINATION WITH YOUR PAYROLL PROVIDER AND TAX PREPARER

Unemployment Benefits

- Unemployment benefits may be available to any individual who is unemployed through no fault of their own
 - KS weekly benefit amount is 4.25% of the highest quarter wages from your base period (first four of the last five completed calendar quarters)
 - KS maximum weekly benefit is \$488, MO maximum weekly benefit is \$320
 - Coronavirus Stimulus proposed to supplement entitled amounts by \$600 for up to four months
- Unemployment insurance benefits may be available to individuals who are involuntarily unemployed as a result of COVID-19
- If an employee is ill because of the coronavirus and unable to work, they may be eligible for unemployment benefits
 - If the employer required the employee to stay home and did not offer telework, the employee might be eligible for benefits if they meet certain criteria
- Benefits are paid to employees weekly out of the state fund
- Employers pay into the state and federal funds quarterly through payroll tax filings
 - Employer state rate is updated annually based on the employer's actual history and potential risk of unemployment

State Shared Work Reduction Program

- You can apply for the Shared Work Unemployment Compensation Program (available in KS and MO) as an alternative to layoffs when faced with a reduction in available work affecting at least 10% of employees
- This allows for you to divide the available work among employees
- Shared Work requires that employee weekly hours be reduced by at least 20% but no more than 40%
 - The employee must:
 - Accept all normal work hours offered by the employee
 - Be able to work and be available for normal work hours
 - Be eligible for regular unemployment benefits
 - Example:
 - 20% of 40-hour work week = 8 hours
 - Employee would need to work and earn wages for 32 hours
 - $20\% \times \text{Weekly Benefit Amount} = \text{Unemployment Wages}$

SBA Economic Injury Disaster Loan Program

- Loans carry an interest rate of 3.75% for small businesses and 2.75% for nonprofits
- Loans can be used to cover accounts payable, debts, payroll and other bills up to a maximum of \$2M
- Loans can be offered with long-term repayments in order to keep payments affordable—up to a maximum of 30 years
- Businesses will apply for loans online and select “Economic Injury” as the reason for seeking assistance
 - Apply here: <https://www.sba.gov/disaster-assistance/coronavirus-covid-19#section-header-48>
- SBA offers disaster assistance via its customer service center
 - If you have questions, contact U.S. Small Business Administration via phone at 800.659. 2955 (TTY: 800.877.8339) or e-mail disastercustomerservice@sba.gov

KS Hospitality Industry Relief Emergency Fund

- Eligible businesses in Kansas will be able to apply for a one-time loan of up to \$20,000 at 0% interest for a period of 36 months
 - Examples of hospitality business include:
 - Restaurants & Bars
 - Lodging facilities
 - Conference centers
 - Event centers
 - Other hospitality businesses will be considered and may be approved on a case-by-case basis
 - Eligibility:
 - Be an existing for-profit business located in Kansas
 - Maintain a staff of fewer than 100 employees
 - Have no outstanding state tax obligations
 - Be willing to submit a personal guarantee of repayment from the owners of the business

*****UPDATE*****

Due to the overwhelming initial response, we regret to announce that all our initial funds available through the HIRE Fund have been allocated at this time. However, we are keeping our form open and will continue to collect information from Kansas hospitality businesses on the losses they are facing due to the COVID-19 pandemic.

KS Hospitality Industry Relief Emergency Fund (Continued)

- These loans can be used as working capital for business expenses including:
 - Commercial loan payments
 - Commercial lease payments
 - Utility bills
 - Payroll
 - Accounts payable
 - Inventory
- Funds will be distributed across the state to maximize relief for all hospitality sectors across Kansas
- Decisions on loan applications will be made within 72 hours of the application receipt, and upon approval, funds will be transferred within 48 hours

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Other Opportunities to Assist with Cash Flow

- Suspended business and residential evictions
 - KS through May 1st
 - KCMO through April 18th
- Loan payment deferment / interest-only payments
 - Business Loans
 - Student Loans
- Others...

PROPOSED: Coronavirus Aid, Relief and Economic Security (CARES) Act

- \$350 billion for small businesses (fewer than 500 employees) impacted by the pandemic in the form of loans; some of those loans could be forgiven
- Direct checks to households in the middle class and in lower income levels
- Extended unemployment insurance program for laid-off workers that will allow for four months of full pay
 - Increase in the unemployment insurance benefit by \$600 per week
 - Applied to traditional workers for small and large businesses as well as those who are self-employed and workers in the gig economy
- Employer-side Social Security payroll tax payments may be delayed until January 1, 2021, with 50 percent owed on December 31, 2021 and the other half owed on December 31, 2022
- Creates a \$300 above-the-line charitable contribution for filers
- Waives the 10% early withdrawal penalty on retirement account distributions for taxpayers facing virus-related economic challenges
 - Withdrawn amounts are taxable over three years, but taxpayers can recontribute the withdrawn funds into their retirement accounts for three years without affecting retirement account caps
- Waives RMD rules for certain retirement plans in calendar year 2020

PROPOSED: CARES Act Small Business Loans

- \$350 billion allocated for Small Business Interruption Loans, which are meant to help small businesses (fewer than 500 employees) impacted by the pandemic and economic turndown make payroll and cover other expenses
 - The loans would be available during an emergency period ending June 30th and would be forgiven if the employer continued to pay workers for the duration of the crisis
 - Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.
- Provides federally guaranteed loans available at community banks to small businesses that pledge not to lay off their workers
- Notably, small businesses may take out loans up to \$10 million and cover employees making up to \$100,000 per year; loans taken for this purposes may be forgiven if the business does not lay off its employees
- In order to be eligible for a loan, a firm must maintain an average monthly number of employees during the covered period that is no less than the number it had before the crisis began

PROPOSED: CARES Act Small Business Loans (Continued)

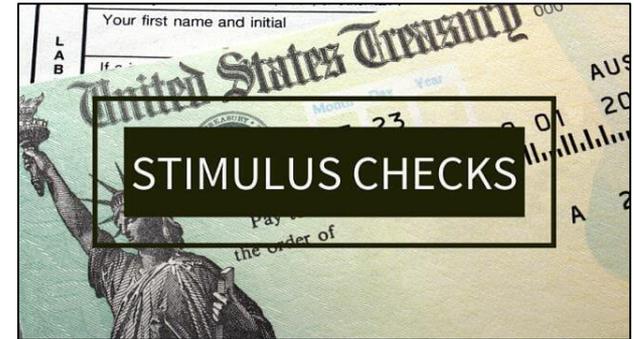
- Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:
 - Payroll costs plus any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation + and any covered utility payment
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation
- To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period

PROPOSED: CARES Employee Retention Credit

- The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis
- The credit is available to employers whose:
 - 1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or
 - 2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.
- The credit is based on qualified wages paid to the employee
- For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above
- For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.
- The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee
- The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020

PROPOSED: CARES Act Stimulus Checks

- Individuals
 - \$1,200 payment
 - Phased out at income of \$75,000 - \$99,000
 - No payment if income over \$99,000
- Married Couples
 - \$2,400 payment
 - Phased out at income of \$150,000 - \$198,000
 - No payment if income over \$198,000
- Individuals and couples with children would be eligible for an additional \$500 per each child they have
- IRS will use a taxpayer's 2019 tax return if filed, or in the alternative their 2018 return
- Payment timing and details TBC



Summary: Relief Opportunities

Operational

- Deferment of Rent Payments
- Deferment of Loan Payments
- Proactive Communication with Customers, Vendors, Employees

Payroll

- FFCRA Payroll Tax Credits
- Workforce Reduction / Unemployment Benefits
- Payroll Tax Deferment Under CARES Act

Funding

- SBA Economic Injury Disaster Loan Program
- CARES Act Small Business Loans
- Stimulus Direct Payments
- KS HIRE Fund and Other State & Local Programs

Helpful Links

Tax Policy Updates

- <https://taxfoundation.org/covid19/>

Missouri

- <https://labor.mo.gov/coronavirus>
- <https://labor.mo.gov/shared-work>

Kansas

- <https://www.dol.ks.gov/covid19response>
- <https://www.dol.ks.gov/employers/shared-work-program>
- <https://www.kansasemployer.gov/uitax/Tax/LayoffSelect.aspx>
- [http://www.kdheks.gov/coronavirus/toolkit/Interim Guidance for Businesses and Employers to Plan and Respond to COVID-19.pdf](http://www.kdheks.gov/coronavirus/toolkit/Interim_Guidance_for_Businesses_and_Employers_to_Plan_and_Respond_to_COVID-19.pdf)
- <https://www.kansascommerce.gov/covid-19-response/hospitality-industry-relief-emergency-hire-fund/>

SBA Small Business Disaster Relief

- <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>
- <https://www.sba.gov/disaster-assistance/coronavirus-covid-19#section-header-48>

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Connect with us to learn more

If you have questions, be sure to reach out to our office. Our entire team is here help!

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