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Insights

The CARES Act: Issues for Employers

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The Coronavirus Aid, Relief, and Economic Security Act (the "Act") provides significant benefits to employers and the workforce in all sectors of the economy. This alert summarizes key aspects of the Act.

Expanded Unemployment Benefits

All recipients of unemployment insurance will receive an additional $600 per week payment for up to four months. States may eliminate the standard one-week waiting period and pay unemployment benefits as soon as a person becomes unemployed and receive reimbursement of these costs through December 31, 2020. Unemployed persons can receive an additional 13 weeks of unemployment benefits through December 31, 2020 from the Federal government if they remain unemployed after state unemployment benefits terminate. Many persons not traditionally eligible for unemployment (such as self-employed, independent contractors, those with limited work history, and others) will be eligible for full benefits through December 31, 2020. Nonprofits, government agencies, and Indian tribes may be eligible for reimbursement of half of the costs they incur through December 31, 2020 to pay unemployment benefits.

Reimbursements "Short-Time Compensation" Programs

Employers can obtain reimbursement for 100% of the costs they incur through December 31, 2020 for a "short-time compensation" programs, in which employers reduce employee hours instead of laying off workers and provide those employees with a pro-rated unemployment benefit. Any State that institutes such a program will be reimbursed 50% of the cost through December 31, 2020 and could be eligible for a portion of $100 million in grants to implement and administer these programs. The Department of Labor must prepare and disseminate model language and other assistance for states to devise and implement these programs.

Employer's Tax-Free Payment Of Employee Student Loans

For any employee's student loan payments paid by an employer from March 27, 2020 through December 31, 2020, up to $5,250 annually will be excluded from the employee's taxable income. The $5,250 cap applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law.

Employee Tax Credit For Retaining Employees

Employers whose operations were fully or partially suspended due to a COVID-19- shutdown order or whose gross receipts declined by more than 50 percent from the same quarter in the prior year can receive a refundable payroll tax credit for 50 percent of wages incurred from March 13 through December 31, 2020. The credit is provided for the first $10,000 of compensation (including health benefits) paid to each eligible employee. Employers with more than 100 full-time employees get the credit only for wages paid to employees

when they were not providing services due to a shutdown order. Employers with 100 or fewer full-time employees can get the credit for all employee wages, regardless whether the employer was shut down.

Deferred Payment Of Employer Payroll Taxes
Employers and self-employed individuals can defer payment of the employer share of the Social Security payroll taxes for two years, with half of the deferred amount to be paid by December 31, 2021 and the other half by December 31, 2022.

Clarifications and Technical Corrections to the Families First Coronavirus Response Act
The CARES Act clarifies that under the Families First Coronavirus Response Act, an employer is only required to pay up to $200 per day and $10,000 in the aggregate for each employee for Emergency Family Medical leave, up to $511 per day and $5,110 in the aggregate for Emergency Paid Sick Leave, and up to $200 per day and $2,000 in the aggregate for employee to care for a quarantined individual or child. The CARES Act amends the Families First Coronavirus Response Act to allow that employees who were laid off after February 29, 2020 are entitled to Emergency Family Medical leave (but not Emergency Paid Sick Leave) if they worked for the employer at least 30 days prior to being laid off and are rehired by June 30, 2020. Employers can receive an advance tax credit from IRS instead of having to be reimbursed on the back end and employer will not be subject to penalties if it fails to pay payroll taxes in anticipation of receiving a tax credit.

SBA Forgivable Loans for Payroll and Grants for Emergency "Economic Injury Disaster Loans"
As discussed more fully in the **Business Section of this Alert**, the CARES Act authorizes the SBA to make "Paycheck Protection" loans that may be fully forgivable if conditions are met. It also expands eligibility for SBA disaster loans with the option to request an emergency advance that does not need to be repaid.

If you have any further questions, comments or concerns, please feel free to contact **Nancy J. Townsend** or a member of our **Employment Law team**.