



## CARES Act Update

Legal Disclaimer: This presentation is intended for informational purposes only and does not constitute legal information or advice. This information is provided in consultation with federal and state statutes and do not encompass other regulations that may exist, such as local ordinances and does not constitute legal advice.

## Families First Coronavirus Response Act Update

- The US Department of Labor issued clarification regarding the use of Emergency Paid Sick Leave
  - Emergency Paid Sick Leave is available for use as of April 1<sup>st</sup>, 2020
  - Emergency Sick Leave does not apply to employees who are furloughed or temporarily laid-off
    - Those employees are eligible for unemployment
  - <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
  - The IRS released guidance Wens, April 1, 2020.

## Emergency Paid Sick Leave Reasons

- Reasons for leave include:
  1. The employee is under a quarantine or isolation order by a local, state or federal agency.
  2. The employee's health care provider has advised them to self-quarantine.
  3. The employee is experiencing COVID-19 symptoms and is seeking medical care.
  4. The employee is caring for someone under quarantine.
  5. The employee is caring for a child whose school or child-care facility has been closed as a result of COVID-19 precautions.
  6. The employee is experiencing symptoms substantially similar to those of COVID-19.

# Emergency Leave Pay Codes



The screenshot shows the 'EARNINGS & DEDUCTIONS' section of the PayrollCentric interface. The 'EARNINGS CODE' column lists 'Comm', 'CVDCARE', 'CVDFMLA', 'CVDREG', and 'Driver'. The 'DESCRIPTION' column lists 'Commission', 'Covid Care', 'Covid FMLA', 'Covid Reg', and 'Driver'. The 'TYPE' column lists 'COVID Sick Other', 'COVID Family', and 'COVID Sick Self'. The rows for 'CVDCARE', 'CVDFMLA', and 'CVDREG' are highlighted in yellow, and red arrows point to the 'DESCRIPTION' and 'TYPE' columns for these rows.

EARNINGS CODE	DESCRIPTION	TYPE
Comm	Commission	
CVDCARE	Covid Care	COVID Sick Other
CVDFMLA	Covid FMLA	COVID Family
CVDREG	Covid Reg	COVID Sick Self
Driver	Driver	

# Small Business Assistance Overview

- \$34.9 billion in forgivable loans to small businesses to pay and retain employees
  - Available to most businesses with less than 500 employees
  - Includes non-profits and self-employed individuals
  - Program is open from April 3, 2020 through June 30, 2020
- \$17 billion in debt relief for current and new SBA borrowers
  - SBA will pay the principal and interest for the next 6-months on SBA-backed loans
  - Will help 320,000 small businesses and any new borrowers in the 7(a) or 504 programs
- \$10 billion in immediate Emergency Economic Injury grants
  - Up to \$10,000 grant to applicants after self-certifying eligibility

# Paycheck Protection Program – Section 1102

- Federally guaranteed loan program to cover payroll costs during the crisis:
  - Loan of up to \$10 Million
    - SBA uses NAICS code to determine max headcount and revenue
  - Covers the 8 week period after loan is made
  - 100% guaranteed, low interest, no fee loans of up to
  - Repayment deferred for at least 6 months
- Amount of loan forgiveness based on employee retention
  - May be up to 100%
  - Maintain headcount and compensation levels

# What is covered?

- Up to 2.5 months of payroll costs
  - Monthly average
  - \$100,000 wage cap per employee
  - *“W-2 or W-3 and any 1099 Misc issued for all employees”*
    - Source: Pacific Premier Bank, Paycheck Protection Program Information Sheet
- Mortgage / Lease
- Utilities
- Other?

# Defining Payroll Costs

- Includes Employee Compensation:
  - Salary, wages
  - Commissions
  - Tips
  - **Capped at \$100,000 per employee**
  - *W-2 or W-3 and any 1099 Misc issued for all employees"*
    - Source: Pacific Premier Bank, Paycheck Protection Program Information Sheet
- Includes payment of Employer Taxes:
  - Federal, state, local
- Includes Employee Benefit Costs:
  - Vacation, PTO, sick and family leave
  - Employer insurance premiums
  - Employer retirement contributions
  - Allowance for separation or dismissal (severance)



## Calculating Average Monthly Payroll

- Most Companies: use the average monthly payroll for all of 2019
- Seasonal Companies: may use the average monthly payroll for the time period between February 15, 2019 and June 30, 2019
- New Companies: may use the time period from January 1, 2020 to February 29, 2020

# Calculating Average Monthly: Examples

Example A:				
EE Count	Annual Wages Per EE	Total Payroll for the Year	Actual Avg Monthly	PPP Avg Monthly
5.00	50,000.00	250,000.00	20,833.33	20,833.33
Example B:				
EE Count	Annual Wages Per EE	Total Payroll for the Year	Actual Avg Monthly	PPP Avg Monthly
5.00	50,000.00	250,000.00	20,833.33	20,833.33
1.00	200,000.00	200,000.00	16,666.67	8,333.33
			37,500.00	29,166.66
*Removed 100,000 in wages from 1 employee in Example B				

## Loan Forgiveness – Section 1106

- Amount of forgiveness based on the number of employees retained
  - At least 75% of the forgiven amount must be used for wages
- Forgiven amount not considered income for tax purposes
- Any amount not forgiven will be a 10 year loan with interest not exceeding 4%

## What if I Already Have an SBA Loan?

- Section 1112 covers current 7(a) and 504 SBA Loan Recipients
- Provides 6 months relief of principal, interest and fees
- Banks have been encouraged to extend the duration of current loans beyond existing limits

## Emergency Economic Injury Grants – Section 1110

- \$10 billion in grants based on the SBA's Office of Disaster Assistance Infrastructure up to \$10,000 per grant
- Funds are disbursed within 3 days of business eligibility verification
- Eligible entities include:
  - Businesses with up to 500 Employees
  - Private non-profits including churches and private universities
  - Cooperatives
  - ESOPs
  - Independent Contractors
  - Self-employed Individuals
- Covers payroll, mortgage, rent and other operating expenses

## Employee Retention Tax Credit

- Company may qualify for a tax credit of up to \$5,000 per employee
- Credit is on the employer portion of Social Security Tax
- Tax credit is not available for companies obtaining an SBA Loan PPP loan
- Cap and restrictions on what wages qualify
- Criteria:
  - Operations were fully or partially suspended due to COVID-19 shut down
  - Gross receipts decreased by 50% or more when compared to the same quarter in 2019
- IRS has yet to issue guidelines

## Employment Tax Deferral

- Not available for employers utilizing the Paycheck Protection Program
- May defer the employer portion of **Social Security tax** until January 1, 2021
- 50% of the deferred tax is due December 31, 2021 and 50% is due December 31, 2022

# Employment Tax Deferral Example

Example A:						
EE Count	Annual Wages Per EE	Total Payroll for the Year	Actual Avg Monthly	PPP Avg Monthly	2 1/2 x	Annualized SS ER Deferral
5.00	50,000.00	250,000.00	20,833.33	20,833.33	52,083.33	15,500.00
Example B:						
EE Count	Annual Wages Per EE	Total Payroll for the Year	Actual Avg Monthly	PPP Avg Monthly	2 1/2 x	SS ER Deferral
5.00	50,000.00	250,000.00	20,833.33	20,833.33		
1.00	200,000.00	200,000.00	16,666.67	8,333.33		
			37,500.00	29,166.66	72,916.66	21,700.00
*Removed 100,000 in wages from 1 employee in Example B						



Questions?

# Resources:

PayrollCentric

[www.payrollcentric.com/covid-19-updates/](http://www.payrollcentric.com/covid-19-updates/) USA Small Business

Administration PPP Sample Application Form

<https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form>

US Dept of Treasury: Assistance for Small Businesses

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

IRS: COVID-19 Related Tax Credits

[https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs?utm\\_source=Employee+Benefits+%26+HR+News+%28Clients%29&utm\\_campaign=d7bd5515ff-](https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs?utm_source=Employee+Benefits+%26+HR+News+%28Clients%29&utm_campaign=d7bd5515ff-)

[EMAIL\\_CAMPAIGN\\_2020\\_02\\_24\\_03\\_49\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_975ado3f20-d7bd5515ff-31470585](https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs?utm_source=Employee+Benefits+%26+HR+News+%28Clients%29&utm_campaign=d7bd5515ff-EMAIL_CAMPAIGN_2020_02_24_03_49_COPY_01&utm_medium=email&utm_term=0_975ado3f20-d7bd5515ff-31470585)