

# Legal Best Practices During a Pandemic

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AGENDA

Legal Best Practices During a Pandemic

**1 Government Relief**

**2 Wage & Hour Requirements**

# Government Relief

## Coronavirus Preparedness Response Supplemental Appropriations Act of 2020

- Increased Funding to the SBA

## Families First Coronavirus Response Act

- Free COVID-19 Testing
- Mandatory Paid Leave

## CARES Act

- Economic Injury Disaster Loan Program
- Paycheck Protection Program
- Unemployment on Steroids
- Other Payroll Tax/Tax Credit Issues

## Economic Injury Disaster Loan Program

- Traditional long-term low-interest loans
- 10-year loans
- 3.75% interest
- Up to \$2 million per business
- Involves credit check
- Meant to cover about 6 months of operating expenses
- Can be used for almost anything related to your business
- \$10,000 advance that doesn't need to be repaid except when a loan is forgiven under the Paycheck Protection Program
- Apply via the SBA: <https://covid19relief.sba.gov>

# Government Relief

## Paycheck Protection Program

- Covers 8 weeks of payroll costs plus rent and utilities. If used properly, it is literally free money.
- Payroll Costs = wages, state/local taxes, healthcare premiums, retirement payments, etc. No FICA or FUTA.
- Compensation limited to \$100,000 per employee, excluding other benefits like healthcare and retirement.
- Most payroll processing providers (ADP, Paychex, Premier, Gusto, etc.) have calculators
- Loan Amount = average monthly payroll from 2019 x 2.5
- For all employees who, between February 15 and April 26, were terminated or had their compensation reduced, you must restore their status/compensation by June 30
- If you do not do this, the amount that is forgiven will be reduced pro rata based on each employee
- Applications for sole proprietorships and independent contractors open on April 10
- To apply, you can use almost any bank

# Government Relief

# Government Relief

## Unemployment on Steroids

- Under the CARES Act, unemployment insurance is being increased by \$600 per week for four months
- Up to 100% salary for up to \$75,000 per year
- Now extended to gig workers, freelancers, and furloughed workers (who are still getting health insurance from their employers but are no paycheck)

## Direct Payments to All

- Check payments of \$1,200 to adults making < \$75,000, with a phase-out that caps it to those making < \$99,000
- Must have filed tax return in 2018 or 2019
- \$500 payment per child in qualifying households

# Government Relief

## Employee Retention Tax Credit

- Meant to incentivizes employers to keep idle workers on their payrolls through tax credits.
- If an employee is kept on the payroll, you can take a tax credit on employment taxes of half of what's spent on wages, with a cap of \$10,000 per employee.
- If the tax credit exceeds tax liability, it will be treated as an overpayment and you will be entitled to a refund.
- However, you must prove gross revenue has declined at least 50% compared to the same quarter last year.
- To avoid double-dipping, if you receive a loan under the Paycheck Protection Program, you are not entitled to the tax credit.

## Deferring Employer Payroll Taxes

- Allows all employers to defer paying their share of payroll taxes for two years.
- Half must be paid by December 31, 2021, and half by December 31, 2022.
- To avoid double-dipping, if you receive a loan under the Paycheck Protection Program, you are not entitled to the tax credit.

# Government Relief

# Wage & Hour Requirements

## Keep in Mind

- New Jersey has its own paid sick laws and other requirements that are in addition to the federal requirements we described.
- New Jersey (and other states) are working quickly to amend their laws or add new requirements as well.

# Wage & Hour Requirements

Do I need to keep paying employees who are not working?

- Under the FFCRA, businesses with <500 employees must provide employees with two weeks paid sick leave at the employee's regular rate to self-quarantine, or 2/3 their rate to take care of a family member who is ill.
- This amount is reimbursed by the federal government within three months through the form of a tax credit. It is fully reimbursable, which means you will get a check if the credit is larger than your tax obligation.
- Beyond that, the answer is generally no.
- Typically, employees are only entitled to wages for hours actually worked.
- Salaried employees must be for an entire workweek if any work is done.

# Wage & Hour Requirements

Do I need to keep paying employees who are not working?

Six exceptions:

- Employee is subject to a federal, state, or local quarantine or isolation related to COVID-19;
- Employee has been advised by a health care provider to self-quarantine related to COVID-19;
- Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- Employee is caring for an individual subject to quarantine order or self-quarantine;
- Employee is caring for children if schools are closed or their caregiver is unavailable because of a public health emergency; or
- Employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

# Wage & Hour Requirements

Can we require employees to use paid time off or vacation days?

- Generally, yes.
- The FLSA does not regulate the accumulation/use of vacation and leave.
- An employment agreement might say otherwise, as could individual state law.

# Wage & Hour Requirements

## Can my employees claim unemployment?

- If child's school or daycare closed, they can use paid sick leave.
- If you voluntarily closed, yes.
- If you were ordered to close, they can use paid sick leave and then apply.
- If their hours have been reduced, yes.
- If a health care provider has deemed them high-risk, they can use paid sick leave then apply for disability insurance.
- If they have COVID-19 or symptoms and can't work, they need to use sick leave then apply for disability insurance.

# Wage & Hour Requirements

## Can my employees claim unemployment?

- If they contracted it while at work, they may qualify for workers' compensation.
- If they were exposed through work and were told to self-quarantine, they may use sick leave or apply for workers' compensation.
- If they were exposed outside of work and were told to self-quarantine, they can use their accrued sick leave.
- If they can't work because they have to care for a relative who has it or who has symptoms, they can use sick leave and then apply for paid family medical leave.

Q&A



Ask Your Questions Now!

**Thank you!**