

April 1, 2020

## **For UTCA Members: Covid-19 Financial Action Steps**

*By Jack Callahan, CPA, CohnReznick Construction Practice Industry Leader*

First and foremost, I hope that this correspondence reaches when all your families, personal and business are safe and healthy. The UTCA has asked that I communicate with its members, both contractor and associates, and provide an update on the various action steps that you should be discussing with your team of trusted advisors to address your company's response to the various actions that the Congress has enacted in the past three weeks. Talk about March Madness.

To help stay on track of all the updates, newly released information and analysis stemming from COVID-19, please bookmark [CohnReznick's Coronavirus Resource Center](#). UTCA also has a resource center on their web site.

Please keep in mind that, while the President has signed these Acts into law, the regulations are still being written and will be for days now. What I will be providing is an overview and cannot be relied upon as tax advice. I will provide links to various websites where more detailed and authoritative support can be found.

UTCA has provided guidance on the safety and legal action steps you need to address. The focus here is on just the financial matters.

- 1) The first actions that Congress took to provide relief was the extension of both tax filing deadlines and delaying payments of first quarter estimated taxes. Most Federal tax returns due to be filed on April 15, 2020 have now been extended and will be due to be filed by July 15, 2020. Additionally, the first quarter estimated taxes due to be paid April 15, 2020, have been extended and are due to be paid July 15, 2020. It is important to note the June 15, 2020, estimated payments have not, as of now, been extended. You will have two payments due in quick succession so be aware. Details on tax extensions from the IRS are [here](#). CohnReznick has additional information [here](#).
- 2) The second major action was the passing of the Families First Coronavirus Response Act. This act applies to employers with less than 500 employees. Those employers with over 500 employees are exempt and they follow their regular leave time provisions. Additionally, those employers with less than 50 employees can elect out of these provisions. For those companies in the 51-500 employees range, they must comply with The Emergency Family and Medical Leave provisions and the Emergency Paid Sick leave provisions. The actual provisions are too detailed to be set forth here but the details are available [here](#). It is critical to know that these provisions, including the posting of notifications, are required to be implemented tomorrow April 2, 2020.
- 3) The third major provision is included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. A full detailed summary of the CARES Act is [here](#). What I will set out are items that are identified as most critical to UTCA member companies and their employees. I have broken down the critical provisions into "business provisions" and "personal provisions," though, in a few cases, they overlap.

A) BUSINESS PROVISIONS:

- i) The most critical and timely issue will be the Paycheck Protection Plan (PPP) Loan program. These loans will be administered by the Small Business Administration but will be processed at local banks. Generally, these loans are available to businesses with less than 500 employees. There are a lot of nuances to this so, if you are uncertain or appear to qualify, please reach out to your trusted advisors. These loans are also available to nonprofits as well. The PPP loans are powerful and are available for amounts equal to 2.5 times monthly payroll (up to a maximum of \$10 million dollars). There should be no surprise that in an 800-page bill, there are a lot of technicalities and understanding the loan amount your company can be eligible for will take some calculations. It is critical you get these correct. Most relevant is that in calculating gross payroll, only wages up to \$100,000 annually per employee are allowable. The SBA made an application form available last night and it can be found [here](#).

The banks do not yet have forms but our discussions indicate they will this week and may begin taking applications no sooner than this Friday April 3, 2020.

This loan can only be used to pay payroll costs, employee benefits, commissions, mortgage payments (interest only), rent for existing leases, utilities and interest on any existing debt obligations. The loan will cover costs from February 15, 2020 through June 30, 2020. There have been promises made to process and distribute these funds quickly. We will see. These loans will be unsecured and will require no personal guarantees. Principal and interest payments on these loans are deferred six months and the rates will be historically low. The most financially rewarding item is that these loans will be FORGIVEN, should the borrower meet required steps. In general, again subject to modifications, those loan proceeds used for payroll costs, interest on mortgage, rent and utilities will be subject to forgiveness. Real incentives are being given here to allow an employer to maintain their workforce. Details for borrowers for PPP loans is found [here](#).

- ii) For employers that will not qualify for PPP loans, Congress has provided some relief in the form of an Employee Retention Credit. This credit provides for a refundable credit for up to \$5,000 per employee for those employers that continue to pay workers through December 31, 2020. There are provisions here also as to which businesses qualify but, in general, if your business has been impacted and do not receive a PPP loan, the business can meet certain impact levels depending on employee headcounts. This credit applies to the employer's share of quarterly payroll taxes and any excess credit is fully refundable. Forms have already been generated to expedite these refunds.
- iii) The Act has also provided economic relief in the way of an Employer Payroll Tax Deferral. This will be available to those employers that do not receive a PPP loan. Under these provisions employers can defer paying the employer share of Social

Security payroll taxes (6.2%) from March 27, 2020 until the end of 2022. The deferred amount must be repaid 50% on 12/31/2021 and the balance on 12/31/2022. This is a powerful cash savings tool for larger employers.

- iv) Recognizing the severe impact the Coronavirus will have on business cash flows, certain provisions in the Tax Cuts and Jobs Act (TCJA) have been repealed. Net Operating Losses from 2018, 2019 and 2020 can be carried back for five years and the Act temporarily removes the 80% loss offset limitations.
  - v) The Act corrects a technical error in the TCJA and now allows the immediate expensing or acceleration of depreciation on interior improvements to nonresidential property including leasehold improvements. This adjustment can be reflected either in a refiling of a prior year's tax return or the current adjustment of the depreciable lives.
  - vi) The Act provides for the liberalization of the deductibility of business interest in 2019 and 2020. The limitation amount has been raised from 30% to 50%.
  - vii) The Act provides that any debt cancellation through the PPP loans will be excluded from taxable income.
  - viii) The Act increases the limits on charitable contributions from 15% to 25%.
- B) **INDIVIDUAL PROVISIONS:** For your individual employees impacted by this act, there have also been several improvements.
- i) Recovery Checks will be made available to most employees with income below \$99,000.  
The Act provides checks up to \$1,200 (\$2,400 for those married filing jointly). These amounts will be increased by \$500 for each qualifying child. Commitments have been made to get these payments out within weeks.
  - ii) Penalties have been waived for early withdrawal from retirement funds. Individuals can withdraw up to \$100,000 from their retirement funds and not be subject to the 10% penalty and the income tax due on those distributions will be spread over three years.
  - iii) Taxpayers are relieved of taking required minimum distributions from certain plans and accounts through the end of 2020.
  - iv) Charitable contributions of up to \$300 will be allowed even for those taxpayers taking the standard deduction.
  - v) Exclusion of Certain Employer Payments of Student Loans. Employers may contribute up to \$2,250 toward an employee's student loans in 2020 and those contributions will be excluded from the employees' wages.
  - vi) Expanded Unemployment. The Act provides employees an additional \$600 a week on top of what they currently will receive through July 31, 2020 and the Act further provides a \$600-week benefit for 13 weeks after the employee's state unemployment benefits expire. This means eligible workers will be able to receive benefits for 39 weeks, up from the current 26 week cap in most states.
  - vii) Employees will be able to take loans from eligible plans for up to \$100,000 and will have three years to repay those loans

While there is a lot to explain, I hope this overview helps shed light on where help exists. Everything here is subject to much more discussion which can be found if you follow the referenced links.

The urgency for employers that qualify is to reach out to local bankers and inquire about the PPP loans. Let them know you intend to file and get your information ready to be prepared to file. These loans will be processed on a first-come, first-serve basis so there urgency exists.

We wish you all the best as you navigate through these challenging times and we want you to know we are here to assist.