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INSIGHT

CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Overview (Part 1)

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) includes numerous provisions to assist employers and employees during the COVID-19 economic downturn. This Insight compares (1) SBA's Paycheck Protection Program; (2) the employee retention tax credit; and (3) Unemployment Insurance. A companion Insight, CRS Insight IN11329, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Assessment of Alternatives (Part 2)*, coordinated by Molly F. Sherlock, highlights factors employers might consider in choosing which program offers them the best support.

Small Business Administration (SBA) Paycheck Protection Program (PPP) Loans

Lenders can issue Paycheck Protection Program (PPP) loans to assist eligible borrowers to pay certain payroll and operating costs for a period of eight weeks. These covered loans have a 100% SBA loan guarantee and charge no borrower's fees. The loans will have a two-year term and 1.0% interest rate. No interest or principal payments are required for the first six months. The covered period runs from February 15, 2020, through June 30, 2020. The CARES Act authorized $349 billion in PPP loans, and they are available on a first-come, first-served basis.

Who is Eligible? Eligible borrowers generally include

- small businesses defined as either businesses that have 500 or fewer employees or that meet the general size standards under the Small Business Act (with special rules for businesses in the accommodation and food services industry),
- sole proprietors and independent contractors (with no employees),
- 501(c)(3) nonprofit organizations (with 500 employees or fewer), and
- 501(c)(19) veterans organizations (with 500 employees or fewer).

Benefit Amount: A borrower may generally apply for a PPP loan amount up to the lesser of

- 2.5 times the average total monthly payments by the applicant for "payroll costs" incurred during the preceding one-year period, or
- $10 million.

Proceeds of PPP loans can be used to cover "payroll costs," plus other enumerated expenses (e.g., rent, utilities, interest on loans). Payroll costs are capped at $100,000 on an annualized basis per employee. Interim final regulations state that no more than 25% of the loan may be used for nonpayroll costs.

PPP loans can be forgiven if the borrower maintains its number of full-time equivalent employees and does not reduce their compensation by more than 25% during the eight-week period after the loan's origination date. Otherwise, the amount of forgiveness is reduced by those measures, relative to base periods specified in the act. Special rules apply to self-employed individuals (e.g., sole proprietors, independent contractors). Loan forgiveness is excluded from gross income for tax purposes.

Interaction with Other Programs: Employers taking a PPP loan cannot claim an employee retention tax credit.

Employee Retention Tax Credit

The employee retention tax credit (ERTC) is a refundable tax credit that reduces an employer's payroll taxes. The credit can be claimed for wages paid after March 12, 2020, and before January 1, 2021.

Who is Eligible? Eligible employers are those who

- are required to fully or partially suspend operations due to a COVID-19-related order (including nonprofit employers); or
- have gross receipts 50% less than gross receipts in the same quarter in the prior calendar year.

Wages used to determine the credit depend on the number of employees the employer had during 2019. If the employer had more than 100 full-time employees, qualified wages are wages paid to employees who are not providing services (i.e., not working). If the employer had 100 or fewer full-time employees, all employee wages paid by eligible employers are credit-eligible. Government employers and self-employed individuals are generally ineligible.

Benefit Amount: Tax credit of 50% of up to $10,000 in wages paid (maximum tax credit of $5,000).

Interaction with Other Programs: Employers receiving a PPP loan cannot claim the ERTC.

Unemployment Insurance

The CARES Act Unemployment Insurance (UI) provisions provide federally funded income support to unemployed individuals by temporarily (1) augmenting all weekly UI benefit payments by $600/week; (2) expanding UI benefit eligibility; and (3) providing an additional 13 weeks of benefits to regular Unemployment Compensation (UC) exhaustees; among other provisions.

Additionally, in states that have Short-Time Compensation (STC, also known as work-sharing) programs, workers whose hours are reduced (in lieu of layoffs) under these formal work-sharing plans may be compensated with STC, which is a regular UC benefit that has been prorated for the partial work reduction. The CARES Act temporarily pays 100% of benefits (50% if the state creates a temporary STC program) if employers have a formal STC agreement with a state when employee hours are reduced.

$600/Week Federal Pandemic Unemployment Compensation (FPUC)

Who is Eligible: Unemployed individuals receiving any UI benefit, including UC, Extended Benefits (EB), and the temporary benefits discussed below.

Benefit Amount and Duration: $600/week; federally financed; authorized in each state after signing an agreement to administer the program (beginning the week after March 24, 2020) through July 31, 2020. No retroactive payments. No payments for weeks of unemployment after July 31, 2020.

Interaction with Other Programs: FPUC augments all weekly UI benefits, including UC, EB, and all temporary UI programs discussed below.

Expanded UI Eligibility: Pandemic Unemployment Assistance (PUA)

Who is Eligible? Unemployed individuals who (1) are ineligible for any other state or federal UI benefit; (2) meet conditions related to being unemployed, partially unemployed, or unable to work due to COVID-19; and (3) are not able to telework and not receiving any paid leave. Eligibility includes those unemployed individuals who were self-employed, independent contractors, or gig economy workers.

Benefit Amount and Duration: PUA provides up to 39 weeks of federally financed UI benefits to unemployed workers. PUA is payable for weeks of unemployment beginning on or after January 27, 2020, and ending on or before December 31, 2020 (and may be paid retroactively). The PUA benefit amount is calculated under state UI law based on recent earnings (subject to the minimum benefit under Disaster Unemployment Assistance [DUA], which is half of the state's average weekly benefit amount).

Interaction with Other Programs: All PUA benefits are augmented weekly by the $600 FPUC for weeks of unemployment beginning after March 27, 2020, through July 2020. The maximum duration of PUA is reduced by weeks of certain UI benefits payable to an individual, including UC and EB.

Additional 13 Weeks of Benefits for UI Exhaustees: Pandemic Emergency Unemployment Compensation (PEUC)

Who is eligible? Unemployed individuals who exhaust regular state and federal UI benefits (and are able, available, and actively seeking work, subject to COVID-19-related flexibilities), through the end of December 2020.

Benefit Amount? The PEUC benefit amount is identical to the regular UC benefit and is calculated under state law based on recent earnings.

Interaction with Other Programs: PEUC benefits are augmented weekly by the $600 FPUC through July 2020. PEUC is paid out after exhaustion of regular UC and before any EB. Only permanent law UI programs (regular UC and EB) are available after the last full week in December 2020.

Federal Cost Sharing of Short-Time Compensation (STC)

Who is eligible? Workers with reduced hours if employer has STC agreement with state.

Benefit Amount? Prorated UC benefit based upon percentage of usual work hours.

Interaction with Other Programs: STC-based UC benefits, like all UC benefits, are augmented weekly by the $600 FPUC through July 2020. Because the CARES Act temporarily funds 100% of STC-based UC benefit in states with permanent STC programs (50% in temporary STC states), states have the option to noncharge employers, thereby mitigating an employer's potential State Unemployment Tax (SUTA) increase. Federal cost-sharing of STC benefits is available from March 27, 2020, through December 31, 2020.

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