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Business Solutions, Family Approach

PPP and UC: Common challenges for returning your workforce

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1:00 TO 2:00 P.M.



Business Solutions, Family Approach



Paul K. Rudoy, CPA/PFS

Managing Partner

H2R CPA

pkrudoy@h2rcpa.com



Pamela Wilkins Connelly

Shareholder

Strassburger McKenna Gutnick & Gefsky

pconnelly@smgglaw.com



Business Solutions, Family Approach



Rachel Felton

Member

Metz Lewis Brodman Must O'Keefe LLC

rfelton@metzlewis.com



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Pennsylvania Unemployment Compensation and the CARES Act

Rachel D. Felton, Esquire
rfelton@metzlewis.com



Pennsylvania Unemployment Compensation

- Unemployment compensation benefits generally cover approximately 50% of an employee's wages.
- Unemployment compensation benefits are capped at \$572 per week.
- Unemployment compensation benefits are available for up to 26 weeks.
- Waiting Week and Work Search Requirements



Pennsylvania Unemployment Compensation Post-COVID 19

- Waiting Week and Work Search Requirements Suspended
- Eligibility for Unemployment Compensation Expanded (e.g. an employee is eligible for unemployment compensation where a healthcare provider, medical professional, or public official has directed the employee to self-isolate)



Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

The CARES Act did 3 main things to unemployment comp in PA:

- All eligible UC recipients get an additional \$600/week from April 5, 2020 through July 31, 2020 (FPUC program).
- Extended eligibility for UC benefits to self-employed workers and independent contractors (PUA program).
- Added 13 weeks of UC benefits, for a total of 39 weeks in PA, even for those who had exhausted benefits (PEUC program).



Additional \$600/week (FPUC program)

- This applies to all who receive UC benefits, including self-employed workers and independent contractors.
- All UC recipients receive the \$600/week on top of other UC benefits.
- Temporary only: it applies to all eligible weeks when UC benefits are paid between April 5, 2020 and July 31, 2020.
 - Before and after that period, UC benefits paid at the regular rate.
- This additional amount is paid weekly and separately from the biweekly UC benefits.



Added 13 weeks of UC benefits (PEUC program)

- Previously, there was a 26-week limit on receipt of UC benefits.
- Now recipients are eligible for 13 additional weeks if still unemployed due to COVID-19 after 26 weeks.
- Applies to all UC recipients, including those who've already received 26 weeks of UC benefits after July 1, 2019, and including self-employed workers and independent contractors.



Unemployment Compensation and Returning to Work

- If an employee is offered work and refuses to accept it without good reason, the employee may no longer be eligible for unemployment compensation.
- What is good reason?
- Form UC-1921 Employer Questionnaire Refusal Suitable Work
 - Form to notify the Pennsylvania Office of Unemployment that an employee has refused to return to work
 - Should be submitted within 7 days of the employee's refusal to return to work

Coronavirus Pandemic Relief Update

Payroll Protection Program (PPP)

- Total Allocated \$660bb
- Funded/assigned as of May 1: \$522bb (per the SBA)
- Guidance continues to trickle out
- All borrowers should review carefully the required certification that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”
 - ✓ Borrowers have until 5/14 to repay the funds penalty free if they are not able to certify.
 - Two criminal charges have been filed regarding PPP loans.
 - Company closed before pandemic.
 - Company lied about number of employees.



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PPP Loan Forgiveness

- How to qualify?
 - ✓ Track qualified cost incurred and paid during the 8-week covered period.
 - ✓ Will need to apply forgiveness through your bank and you will be required to self-certify. Loans over \$2m, forgiveness will be reviewed by SBA.
- What qualifies?
 - ✓ Payroll costs - gross wages, health insurance, retirement/pension plan contributions, state and local taxes all amounts are paid by employer's net of employee contributions.
 - ✓ Operating costs – Rent and interest on mortgages covering real and personal property (i.e. office/warehouse/manufacturing space, equipment used in the operating of the business including automobiles); and utilities.



PPP Loan Forgiveness (cont.)

- What is excluded?
 - ✓ Gross wages over \$100k annualized (\$15,384.61 during the 8-week period)
 - ✓ Sick Leave paid covered by other federal funds.
 - ✓ Federal taxes paid by the employer, the employee's taxes are part of the gross wages and are not able to be included a second time.
- What reduces forgiveness?
 - ✓ Reductions in workforce
 - ✓ Reductions in wages greater than 25%, this is on an employee by employee basis.
 - ✓ Less than 75% of funds being used to cover payroll costs.



PPP Loan Forgiveness (cont.)

- We are awaiting guidance on forgiveness.
 - ✓ SBA has said attempts to rehire employees who refuse to return will not count against the employer on the forgiveness calculator. Attempts to rehire must be documented by employer and the employee.
 - Additional insight will be provided further into the presentation.



PPP Loan Forgiveness (cont.)

- What happens if we do not use all the funds on forgivable costs?
 - ✓ Funds remain a loan at 1% within 2 years of the loan date with payments to begin 6 months after the date of the loan.
 - ✓ Interest is accrued the 6-month deferment period.
 - Interest accrued during the 8-week covered period is forgiven if loan is forgiven.

Business Considerations

- Begin to prepare projections to see what will be forgiven.
 - ✓ There may be planning opportunities to get more forgiveness.
 - ✓ Once eight weeks is over very little planning can be done.
- Don't let "free money" guide all your decisions.
 - ✓ 1% loan could be more valuable than forgiveness.
 - ✓ Forgiveness and tax deductions cannot be double counted

Forthcoming Guidance on PPP Forgiveness

- Guidance is needed to understand what will be allowable.
- We hope guidance will clarify many items such as:
 - ✓ Do retirement funds incurred during 8-week period need paid in 8-week period? Do discretionary matches qualify?
 - ✓ Can bonuses be paid out of PPP loan funds?
 - ✓ Do wage increases qualify.
 - ✓ Do rehires need to happen by 6/30 or the end of the 8-week period?
 - ✓ What is included in utilities?
 - ✓ Can family members be hired to offset FTE's who have refused to return?



PPP Tax Deductibility

- Although the forgiveness is non-taxable, the IRS stated that expenses funded by forgiven proceeds are non-deductible. This situation may evolve depending on congressional action.
 - ✓ Pennsylvania House proposing a Bill to make PPP Loan forgiveness non-taxable.
 - This would create a different taxation at the Federal and PA level.



Additional Federal Loan Programs

- Economic Injury Disaster Loan (EIDL)
 - ✓ Through the SBA, can apply for up to a \$10k grant three days after application. The grant is not required to be repaid even if the loan is not approved.
 - ✓ The grant will reduce PPP forgiveness
 - ✓ Designed for small business
- Main Street Loans through the Federal Reserve
 - ✓ Loan minimum of \$500K
 - ✓ Must be repaid
 - ✓ Designed for large businesses



Coronavirus Pandemic Relief Update

Tax and the FFCRA and CARES Acts

- Filing and payment deadlines have been postponed to 7/15
- Q1 and Q2 estimated payments due dates have been postponed to 7/15
- Many states have followed the Federal deferments, including PA.
- Tax Credits for FFCRA Paid Sick and Family Leave
- Allowable credit up to \$10,000 in the aggregate for the 10 weeks
- Employee retention credit for employers, refundable payroll tax credit for 50% of wages paid by eligible employers, capped at \$10k total, must have shown a 50% reduction in gross receipts, not eligible if granted forgiveness under PPP



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Coronavirus Pandemic Relief Update

Tax and the FFCRA and CARES Acts (cont.)

- Delay of payment of employer payroll taxes from 2020 to 2021 and 2022, not eligible if granted forgiveness under PPP
- Temporary repeal of taxable income limitation for net operating losses (NOLs)
- Repeal of the 10% penalty on early distributions for coronavirus-related retirement plan distributions up to \$100k.
- RMD requirement waived for 2020
- Penalty-free withdrawals from 401(k)s
- Qualified plan loans increase from \$50,000 to \$100,000
- \$300 above-the-line charitable deduction
- Removal of limitations on individual cash charitable contributions during 2020



UC & the PPP FAQs

Pamela W. Connelly
pconnelly@smgglaw.com



**Strassburger McKenna
Gutnick & Gefsky**

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Question # 1

If I cannot operate my business due to state restrictions (e.g. stay at home order, capacity limitations), can I pay employees who are not working with PPP funds?

Question # 2

What steps should I take to return employees to work?

Question # 3

If an employee refuses to return to work (citing issues such as childcare, won't return because "scared," "don't want to," unemployment pays more), what should I do?

Question # 4

Can I prepay employees' wages? Can I prepay employees' benefits?

Question # 5

Can I reduce employees' wages or salaries if necessary for my business?

Question # 6

Can I hire new employees? Can I pay the new employees more money?

Question # 7

Should I be concerned about fraud?

Tips and Recommendations

Practice:

1. Communication;
2. Consistency; and
3. Confidentiality.

Tips and Recommendations

Communication with employees

- Communicate **potential** consequences
 - Loss of job
 - Loss of benefits
 - Loss of seniority
 - Loss of UC comp benefits

Communication with the Commonwealth

- Form
- Timing

Tips and Recommendations

Consistency with Employees

- Standard form providing notice to all
- Standard requirements applied to all
- Standard form responses
- Caveat – disability-related issues
- Develop recordkeeping systems to ensure consistency

Consistency with the Commonwealth

- Avoid discrimination claims

Tips and Recommendations

Confidentiality

Keep all information on a need to know basis

Be careful to protect the confidentiality of medical issues and documentation

- Maintain records, separating medical information

Final Tip and Recommendation

Keep Learning

Guidance, rules and regulations continue to be published.

New laws continue to be passed.

Questions / Discussion

THANK YOU



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