Impacts of the Coronavirus (“COVID-19”) are hurting businesses and nonprofit organizations of all sizes, causing many employers to experience unforeseen economic hardship. Many businesses seek cash to cover urgent employee costs, rents, and other debts during these times. Employers should consider their eligibility under certain favorable provisions of new tax legislation to generate immediate benefits. Three recently enacted payroll provisions provide employers with federal tax credits and solutions to keep some cash in the pockets of business by allowing the indefinite deferral certain payroll taxes.

**CARES Act Employee Retention Credit**

The Employee Retention Credit is available to all employers, except those who have taken a Paycheck Protection Program (“PPP”) loan. The credit applies during 2020, when a trade or business or nonprofit organization:

- Is partially or fully suspended due to a government order limiting commerce, travel or group meetings resulting from COVID-19; or
- Has gross receipts during a quarter in 2020 that are less than 50 percent of gross receipts for the same quarter in 2019.

The Employee Retention Credit is available for wages paid after March 12, 2020, and before January 1, 2021. The credit is limited to $5,000, a maximum of 50 percent of up to $10,000 in qualified wages and health benefits paid, to each employee. Employers with more than 100 full-time employees calculate the credit using only the wages and healthcare costs of employees who are not providing services during the periods discussed above. For employers with 100 or fewer workers, all wages and healthcare costs of employees (both working and nonworking) can be used to generate the credit.

**CARES Act Deferral of Employment Tax Deposits**

The CARES Act allows employers to defer the deposit and payment of the employer’s share of OASDI tax. This deferral is available to all employers, regardless of size. Under legislation enacted June 5, 2020, employers with a PPP loan are able to continue deferral through the end of the year, even if their loan is forgiven.

If a third party professional employer organization (“PEO”) or other payroll provider is responsible for making the payroll tax deposits, the employer must direct that third party not to pay the amounts eligible for deferral. The employer then assumes sole responsibility for the payment due by the due dates discussed above. The deferral of payroll tax payments can be viewed as a short-term, interest-free-loan loan from the government to assist employers during the COVID-19 crisis.

**FFCRA Mandated Paid Sick Leave and Paid FMLA Leave**

Beginning April 1, 2020, employers with fewer than 500 employees are required to provide paid sick leave for 10 days or up to 80 hours to any employee unable to work or telework if the employee:

- Is subject to federal, state, or local quarantine or isolation related to COVID-19;
- Is self-quarantined as advised by a healthcare provider because of COVID-19 related concerns;
- Has COVID-19 symptoms and is awaiting medical diagnosis;
- Is caring for a child at home because a school or childcare facility is closed or a childcare provider is unavailable due to COVID-19;

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- Is caring for an individual that is under federal, state, or local quarantine related to COVID-19 or self-quarantined as advised by a healthcare provider because of COVID-19 symptoms; or,
- Has other symptoms outlined by the Secretary of Health and Human Services, in consultation with the Department of the Treasury and the Department of Labor.

In addition, employers with fewer than 500 employees are required to provide eligible employees up to 10 weeks of paid leave under the Family and Medical Leave Act ("FMLA"), if the employee is unable to work or telework as a result of caring for a child whose school is closed or whose childcare provider is unavailable due to COVID-19.

**Take Advantage of Employment Credits and Deferral**

For more detailed information about any of these three provisions or assistance in calculating credits and deferrals, please contact Anne Yancey or Deborah Walker.

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**Let us be your guide forward**

Anne M. Yancey, CPA, CCIP  
National Director, State Credits & Incentives  
ayancey@cbh.com  
404.733.3329

Deborah Walker, CPA  
National Director, Compensation & Benefits  
dwalker@cbh.com  
703.506.4440