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Notice of Information Regarding COVID-19 for our Payroll Clients

(last updated May 4, 2020 9:30am)

PA Unemployment

- **Information for Employers:**

- New Information with CARES Act – Self-employed business owners are now eligible for unemployment benefits under the Pandemic Unemployment Assistance program. This is federally funded unemployment but administered by the state. Claims will be retroactive to the week ending on April 4th. Schedule C information and/or 1099-misc forms will be required as documentation to apply.
- After an employee claim is filed the employer will receive the Notice of Application, form UC-45. This form contains the separation information the claimant provided to UC during the application process.
 - Employers should return this form ONLY when there is a conflict between the claimant provided information and the employer information. If there are no discrepancies, please do NOT return the form.
- Employers will also receive the Notice of Financial Determination, form UC-44F(3) and the Request for Relief From Charges, form UC-44FR. These forms are to request that your rate is not affected by claims related to COVID-19.
 - As of this time, it is assumed that the relief form has to be filed for each unemployment claim
 - The volume of claims and the need to maintain social distancing will cause all these mailings to be delayed
 - UC is aware that appeals to the UC-44F(3) may be necessary and requesting relief from charges will also be important
 - The department understands mail delays may make it difficult to respond timely
 - They plan to be liberal when applying the relief from charge deadlines
 - When filing appeals, please keep a record of when determinations are received and when and how the appeal is filed
- Compensation appeal hearings will be temporarily scheduled as telephone hearings
- Government and nonprofit entities will have a 50% reduced reimbursement rate
- Employers who applied for and received funding under the Paycheck Protection Program will need to pay employees for the 8 week “covered period” following receiving the funding in order to request forgiveness. Any employee that had previously applied for unemployment that will be receiving a paycheck from their employer during this 8 week time should not file unemployment claims for these weeks.

- **Information for Employees:**

- Employees may be eligible for PA Unemployment if their employer temporarily closes or goes out of business because of COVID-19, reduces available work hours, or if the employee has been told to quarantine or self-isolate. Also included is if the employee has been told not to come to work because the employer feels the employee might get or spread COVID-19.
- Employees are NOT eligible for unemployment if they choose to stop working for a life-sustaining employer or an employer who offers a telecommuting option.

- There is no requirement to look for work or register with CareerLink
- The one week waiting period for employees has been temporarily suspended
- New Information with CARES Act – The federal government is providing aid to state unemployment with the following changes, effective through December 31, 2020 unless otherwise stated
 - Expanded Unemployment Insurance for workers, including a \$600 per week increase in benefits up to July 31, 2020. It will not be considered income for purposes of qualifying for Medicaid or CHIP. The extra \$600 will be starting in unemployment checks starting for the week ending April 4, 2020. It will be retroactive to that date and will be paid on a bi-weekly basis.
 - Benefits will be provided to self-employed, independent contractors, and those with limited work history. PA Unemployment has the Pandemic Unemployment Assistance (PUA) application available on it's website uc.pa.gov.
 - Added an additional 13 weeks of benefits through December 31, 2020 after state unemployment runs out
- Employees may not apply for unemployment if they are receiving compensation under the Emergency Family and Medical Leave Expansion Act or the Emergency Paid Sick Leave Act from their employer (see below)
- All unemployment, including the additional \$600 is federally taxable income and will be subject to 10% federal withholding tax, if you have elected to have taxes withheld from your regular UC benefits.

ADA Requirements and Relaxations for Employers

- COVID-19 is classified as a direct threat and employers are permitted to ask health related questions concerning symptoms
 - All answers must be kept confidential
- Employers are permitted to take temperatures of employees
- Employers are permitted to forcefully tell employees to stay home if they exhibit symptoms or have disclosed potential exposure
- Employers are permitted to request a note from a physician for an employee requesting to return from work after a positive diagnosis
- Employers are not permitted to forcefully tell an older or high risk employee to stay home simply to protect them from exposure

Requirements to pay employees – These start APRIL 1

These are required for less than 500 employees. There is no exemption at this time for less than 50 employees but it may occur if the act would jeopardize a business's viability subject to regulation by the Department of Labor. ALL normal payroll taxes and withholdings apply to the pay to employees under these Acts.

The Department of Labor has released information regarding documentation for COVID-19 sick leave/family leave.

- An employer is permitted to require supporting documentation for an employee requesting leave
- Employers should retain all supporting documentation

*If the employee has already been furloughed prior to April 1st, there is NO REQUIREMENT to pay employees under these 2 acts. The employee should apply for unemployment.

- **Emergency Family and Medical Leave Expansion Act (EMFLEA):**
 - Employees may take up to 12 weeks of leave if caring for a son or daughter under 18 whose school or place of care has closed due to COVID-19
 - The first 10 days are unpaid **-or-** paid using accrued paid sick leave or vacation **-or-** can be paid under the EPSLA
 - Remaining days (10 weeks) are at 2/3 normal wages employee is regularly scheduled, up to \$200 per day, capped at \$10,000 overall
 - Pertains to employees of at least 30 days
 - Job will be protected and guaranteed upon return from leave

- Employer receives 100% back in credits against SS-ER & Med-ER payroll taxes. This will be done through the 941 deposits.
- **Emergency Paid Sick Leave Act (EPSLA):**
 - (1) Full-time employees must receive 80 hours of pay at their regular rate, up to a maximum of \$511 per day (\$5,110 total)
 - or -
 - (2) Part-time employees must receive sick time based on their average hours worked over a 2 week period to those in the following categories
 - Subject to a quarantine or isolation order
 - Being on a non-life-sustaining list of employment does NOT qualify as being subject to a quarantine or isolation order
 - Advised by a health provider to self-quarantine
 - Experiencing symptoms and seeking diagnosis
 - (1) Full-time employees must receive 80 hours of pay at 2/3 their regular rate, up to a maximum of \$200 per day (\$2000 total)
 - or -
 - (2) Part-time employees must receive 2/3 their regular rate based on their average hours worked over a 2 week period to those in the following categories
 - Caring for an individual subject to the 3 categories listed above
 - Caring for a son or daughter whose school or child care is closed (this can be extended up to an additional 10 weeks with the ESPLA)
 - Experiencing a “substantially similar condition” specified by the government
 - Pertains to all employees, regardless of length of employment
 - Employers cannot mandate that the employee find a replacement worker for themselves
 - Employers cannot mandate that other available sick leave or PTO be used prior to receiving this sick time

Payroll Taxes – For wages paid under the EMFLEA or EPSLA Act

When paying employees under either of the two leave acts, the employer will receive a dollar for dollar credit (subject to limitations) of the gross pay.

- The EMFLEA credit for each employee is the amount of **leave pay** limited to \$200 per day (\$10,000 max for 12 weeks)
- The EPSLA credit is defined for each employee as the lesser of
 - The amount of **actual leave pay**
 - **\$511/day** depending on condition of leave
 - **\$200/day** depending on condition of leave
- The credit is refundable to the extent they exceed the employer’s portion of payroll tax for all employees combined, including those with applicable EMFLEA, EPSLA and active employees. This refundable credit can be applied for using IRS form 7200: <https://www.irs.gov/pub/irs-pdf/f7200.pdf>.
- Credits will occur within the 941 deposits.
 - Example: An eligible employer paid \$5000 in sick leave, and is otherwise required to deposit \$8000 in payroll taxes (including taxes withheld from all of its employees), the employer could use up to \$5000 of the \$8000 in taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3000 on its next regular deposit date.
 - Example: An eligible employer paid \$10,000 in sick leave, and is otherwise required to deposit \$8000 in payroll taxes (including taxes withheld from all of its employees), the employer could use the \$8000 in

taxes it was going to deposit for making qualified leave payments and file a request for the refund in credit for the remaining \$2000 using form 7200. This form can be found on the IRS website at this link: <https://www.irs.gov/pub/irs-pdf/f7200.pdf>

- Credits will be reconciled in the quarterly 941 form starting with the second quarter, 2020

Payroll Taxes – For normal wages paid under the CARES Act

There are several payroll tax options for those who continue to pay wages, depending on your company situation. Neither of these are available to employers receiving assistance through the Paycheck Protection Program.

- **Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship**

- For employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings
 - or -
 - Employers who are experiencing a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis.
 - Refundable payroll tax credit for 50% of wages paid to eligible employers to certain employees during the COVID-19 crisis
 - Eligible wages for the credit include those wages for employees who were either:
 - For employers > 100 employees: Only include wages of those furloughed or facing reduced hours as a result of their employers' closure or economic hardship
 - For employers <= 100 employees: All employee wages are eligible, regardless of whether an employee is furloughed, *as long as they are considered to be an eligible employer*
 - Any wages paid under the EMFLEA or EPSLA are not eligible as wages for this credit
 - Any wages paid to an employee for which the employer is allowed a work opportunity credit is not eligible as wages for this credit
 - Eligible wages are capped at \$10,000 paid by the employer to an eligible employee
 - Credit applies to wages paid after March 12, 2020 and before January 1, 2021
 - Credit is provided through December 31, 2020
- **Delay of Payment of Employer Payroll Taxes**
 - An employer still paying wages to any employees, regardless of actually working or not is eligible to delay a portion of their 941 deposits
 - The ER portion of Social Security (6.2%) payroll taxes that are due between March 27, 2020 and December 31, 2020 can be deferred through the end of 2020 into 2 equal installments with the following due dates
 - 50% due 12/31/21
 - 50% due 12/31/22
 - The ER portion of Medicare (1.45%) is still due on the normal deposit frequency
 - Deferral is optional, not required
 - The qualifying deferred payroll taxes are based on **deposit deadline**, not on date of liability. Wages payed in late December with a deposit date in early January will not be eligible for deferral.
 - It is expected that the 941 form will be revised to track those who choose to defer payments

Self-employed Specific Information

Self-employed individuals will be allowed similar refundable credit against the self-employment tax based on the situation applied. Piggy-backing credits is not allowed and it's up to each self-employed individual to determine which course of action is best for them.