

NTRA Equine Industry Update on COVID-19 Federal Stimulus Bills

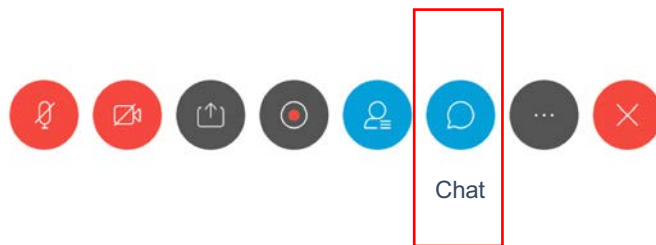
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Welcome!

Questions?

- Use the Chat window throughout the presentation – questions will be addressed at the end



Chat

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**The matters discussed in these materials
provide general information only.**

**You should consult with an advisor about your
specific situation before undertaking action
based on such general information.**

Today's topics

- Sick and family leave payroll tax credits
- Employee retention tax credits
- Deferred payment of employer payroll taxes
- Economic injury disaster loans
- Paycheck protection loans
- Income tax updates



Payroll Tax Credits and Deferral

Payroll tax relief measures




Sick and family
leave payroll
tax credits



Employee
retention tax
credit



Payroll tax
deferral



Sick and Family Leave Payroll Tax Credits

Families First Coronavirus Response Act

- Emergency Paid Sick Leave Act (Sick Leave Act)
- Emergency Family and Medical Leave Expansion Act (Family Leave Act)
- Tax credits for paid sick and family leave

Sick Leave Act

- Applies to government employers as well as tax-exempt organizations and private employers with less than 500 employees
- Requires employer to provide two weeks (up to 80 hours) of paid sick leave if employee is unable to work for COVID-19 related reasons

Reasons for paid sick leave

1. Subject to federal, state, or local quarantine or isolation order related to COVID-19
2. Advised by healthcare provider to self-quarantine
3. Experiencing symptoms of COVID-19 and seeking diagnosis
4. Caring for individual subject to (1) or (2)
5. Caring for child whose school/place of care is closed or childcare provider unavailable due to COVID-19
6. Any other substantially similar reason specified by federal government

Paid sick leave

Reason for leave	Rate of pay	Maximum
1. Subject to COVID-19 quarantine/isolation order	Regular rate of pay	\$511 per day/\$5,110 total
2. Advised by healthcare provider to self-quarantine		
3. Symptoms of COVID-19 and seeking diagnosis		
4. Caring for individual subject to (1) or (2)	2/3 regular rate of pay	\$200 per day/\$2,000 total
5. Caring for child whose school closed or childcare provider unavailable		
6. Other substantially similar reason specified by federal government		

Family Leave Act

- Applies to certain government employers as well as tax-exempt organizations and private employers with less than 500 employees
- Employees unable to work due to need to care for child whose school or place of care closed due to COVID-19 emergency
 - Employees must be on the payroll for at least 30 days

Family Leave Act

- Twelve weeks of job-protected family leave (first two weeks under the sick leave act)
- After first two weeks, must provide 2/3 regular rate of pay, up to \$200/day and \$10,000 total

Payroll tax credits

- Refundable payroll tax credits equal to 100% of:
 - Wages paid under Sick Leave Act
 - Wages paid under Family Leave Act
- Credits include amounts paid for health plan coverage
- Governmental employers, including government agencies and instrumentalities, not eligible for credits
- Equivalent credits for self-employed individuals

Payroll tax credits

Type of leave	Reason for leave	Tax credit limit per employee
Paid Sick Leave	<ol style="list-style-type: none"> 1. Subject to COVID-19 quarantine/isolation order 2. Advised by healthcare provider to self-quarantine 3. Symptoms of COVID-19 and seeking diagnosis 	Employee's regular rate of pay, up to \$511/day and \$5,110 total, for up to 10 days
Paid Sick Leave	<ol style="list-style-type: none"> 4. Caring for individual subject to (1) or (2) 5. Caring for child whose school closed or childcare provider unavailable 6. Other substantially similar reason specified by federal government 	2/3 employee's regular rate of pay, up to \$200/day and \$2,000 total, for up to 10 days
Paid Family Leave	Caring for child whose school closed or childcare provider unavailable	2/3 employee's regular rate of pay, up to \$200/day and \$10,000 total

Fewer than 50 employees?

- Exemption for businesses with fewer than 50 employees
- Exemption only applies to requirement to pay leave related to school closings or childcare unavailability
- Must jeopardize viability of business as going concern
 - 3 criteria listed in the DOL's FAQs to employers

Closing remarks

- Sick Leave Act and Family Leave Act effective 4/1/20
- Payroll tax credits apply to wages paid for period 4/1/20-12/31/20
- Use Form 7200 to request an advance payment of the tax credits for these leave programs along with the employee retention credit (discussed next)



Employee Retention Tax Credit

The basics

- Created by CARES Act
- Refundable payroll tax credit *equal to 50% of “qualified wages” per employee*
- “Qualified wages” per employee cannot exceed \$10,000 for all quarters
- Applies to wages paid 3/13/20-12/31/20

“Qualified wages”

- Include health plan expenses
- Do not include wages paid under Sick Leave Act or Family Leave Act
- Depend on average number of full-time employees during 2019
- Aggregation rules apply
 - Companies with common ownership could be treated as single employer

“Qualified wages”

Full-time employees during 2019	“Qualified wages”
More than 100	Wages paid when employee not providing services, limited to 30 days per employee
100 or fewer	All employee wages

Eligible employers

- Operating business in 2020
- Meet one of the following:
 - Operation of business fully or partially suspended due to COVID-19 orders from government agency
 - Calendar quarter within the period that:
 - Begins with 1st calendar quarter after 12/31/19 for which gross receipts are less than 50% of gross receipts for same calendar quarter in prior year
 - Ends with calendar quarter following 1st calendar quarter for which gross receipts are greater than 80% of gross receipts for same calendar quarter in prior year

Ineligible employers

- Governmental employers, including government agencies and instrumentalities
- *Employers who receive a small business interruption loan under the Paycheck Protection Program (to be discussed later in the presentation)*



Payroll Tax Deferral

The basics

- Employers and self-employed individuals can defer payment of employer share of Social Security taxes payable for all reporting periods through 12/31/20
- Tax liability must be paid (just deferred, not forgiven)
- Payment is due in two installments:
 - 50% by 12/31/21
 - 50% by 12/31/22

The basics

- Payroll tax deferral period is 3/27/20-12/31/20
- *Employers who receive loan forgiveness from Paycheck Protection Program not eligible (to be discussed later in the presentation)*



Economic Injury Disaster Loans (EIDL)

Loans offered through the SBA

- SBA had small business loan programs and disaster loans prior to COVID-19, including EIDL loans
- Section 7(a) of the Small Business Administration Act authorizes and describes the small business loan programs
- SBA loans are provided to “small business concerns”
- There is a definition for “small” and “business concern”

What is a “small” business?

- Size standards define small and vary by industry
- They are a function of either:
 - Number of employees
 - Annual gross receipts
- NAICS codes are used when identifying industries
 - Example – Racing stables, trainers and jockeys with less than \$12M in average annual revenue meet the small business standard for this purpose

What is a “small” business?

- When determining number of employees or gross receipts “affiliates” must be included
- An affiliate is a party with the “power to control”
- Power to control?
 - External party with 50% or more ownership
 - Less than 50% ownership, but has other ways to control
 - Exercise of control not necessary, just ability

“Business concern”

- For profit business entity
- A place of business within the US
- Operates primarily within the US
- Legal form
 - Individual proprietorship
 - Partnership/LLC/JV
 - Corporation
 - Association, trust, cooperative

EIDLs – What are they for?

- Working capital loans
- Must be used to maintain payroll, provide sick leave to employees unable to work due to the “direct effect” of COVID-19, meet increased material costs due to supply chain disruptions, make rent or mortgage payments, repay other obligations unable to be met
 - Cannot be used to refinance long-term debt
 - Cannot be used to replace lost sales or profit or for expansion

EIDLs – Who is eligible?

- Location must be declared a disaster area – entire country has been declared disaster
- Suffered working capital losses due to disaster
- Available to “small business concerns,” 501(c),(d), and (e) nonprofit organizations, small ag cooperatives, small businesses engaged in aquaculture, sole proprietorships, and independent contractors
- Acceptable credit and ability to repay

What are the terms of an EIDL?

- Amount loaned depends on demonstration of need, but cannot exceed \$2M
- Interest rate is 3.75% for small businesses and 2.75% for nonprofit organizations
- Terms up to 30 years

EIDL – Additional information

- Collateral required for loan amounts > \$25,000
- CARES Act modified certain normal terms
 - Personal guarantee not required unless loan is >\$200,000
 - Borrower having existing credit elsewhere is waived
 - Available even if in business less than 1 year
 - Permits borrowers to apply for a \$10,000 emergency grant advance that is not required to be repaid
- Apply online directly to the SBA



Paycheck Protection Loan (PPL) Program

The PPL Program

- Created as part of CARES Act
- A *new* Sec. 7(a) loan program with special provisions that expand eligibility
- Eligibility expanded to include
 - Businesses with 500 employees or less (removed the annual average gross revenue requirement)
 - Sole proprietors, independent contractors, and eligible self-employed individuals
 - 501(c)(3) and 501(c)(19) nonprofit organizations specifically included

PPL Program – key points

- *Potential loan forgiveness*
- No fees (but there could be “costs”)
- “Credit elsewhere” requirement waived
- No personal guarantee or collateral required
- Deferral of payment for 6 months
- 2 years to repay at 0.5% interest
- No prepayment penalty
- Waiver of affiliation rules for hospitality and restaurant industry

PPL Program - potential loan amount

- Loan amount is the lesser of:
 - 2.5x average monthly payroll costs, or
 - \$10M
- “Payroll costs”
 - Gross wages (limited to \$100K/employee); employer cost of group health plans, including insurance premiums, and employer cost of retirement plan benefits
 - For sole proprietors or independent contractors – net earnings from self employment (limited to \$100K)

PPL Program – qualifying uses of loan

- Allowable uses
 - Payroll costs
 - Interest on mortgage indebtedness (preexisting)
 - Rent (preexisting)
 - Utilities
 - Interest on other indebtedness

PPL Program – potential loan forgiveness

- *Eight weeks of ...*
 - Payroll costs
 - Mortgage interest or rent
 - Utilities
- Interest on other indebtedness not included in list of forgivable loan amount
- Amount forgiven can be reduced in certain circumstances if reduction in employees

PPL Program – how to apply

- Apply at an SBA-approved bank
- Certify (application must be signed by each 20% or greater owner)
 - **The uncertainty of current economic conditions makes the loan necessary to support ongoing operations**
 - The money will be used to retain workers and maintain payroll, make interest payments on mortgage or pay rent, and pay utilities
 - You have not applied for or received a PPL more than once

Recap of specific situations

- Racehorse owner or racing stable with no payroll
 - May be eligible – EIDL
 - Not eligible – Employer tax credits, employer tax deferrals, PPL (since no payroll)
- Trainer who has payroll
 - May be eligible – PPL, EIDL (which can be converted into a PPL), employer tax credits and employer tax deferrals (but only if does not participate in the PPL)

Recap of specific situations

- Horse farm with payroll
 - May be eligible – PPL OR employer tax credits and employer tax deferrals
 - Not eligible – EIDL
- Bloodstock agent, consignor, manager of racing stable – sole proprietor or partnership without payroll
 - May be eligible – PPL based on self-employment income up to \$100K/owner, EIDL (which can be converted into a PPL), employer tax credits and employer tax deferrals (but only if does not participate in the PPL) on self-employment income

Recap of specific situations

- Bloodstock agent, consignor, manager of racing stable
 - s corporation with only shareholder wages
 - May be eligible – PPL based on wages paid to shareholder up to \$100K/owner, EIDL (which can be converted into a PPL), employer tax credits and employer tax deferrals (but only if does not participate in the PPL) on shareholder wages only

Recap of specific situations

- 501(c)(3) non-profit entity with payroll
 - May be eligible – PPL, EIDL (which can be converted into a PPL), employer tax credits and employer tax deferrals (but only if does not participate in the PPL)
- 501(c)(6) non-profit entity with payroll
 - May be eligible –EIDL, employer tax credits and employer tax deferrals
 - Probably not eligible - PPL



Income Tax Updates

Deferral of limitation on business losses

- “Excess business loss” limitation for individuals, trusts and estates
 - Defined as net business losses exceeding \$255,000, or \$510,000 for married filing joint returns, for 2019
 - Good news – This limitation is now deferred until 2021 so not subject to this limitation in 2018, 2019 and 2020. Opportunity to amend 2018 and 2019 tax returns previously filed to request refunds.
 - Bad news – When this becomes effective in 2021, wages are no longer considered business income for purposes of this calculation.

Net operating losses

- New rules apply to C corporations and business losses generated by individuals
- For net operating losses generated in 2018, 2019 and 2020, these may now be carried back for up to 5 years and fully offset taxable income

Charitable contributions

- 2020 cash contributions made to qualifying charities (but NOT donor advised funds or private foundations)
 - Individuals – may offset 100% of income. The 60% of adjusted gross income limitation is temporarily removed for 2020 only.
 - C Corporations – may offset up to 25% of income versus the normal 10% limitation.

Retirement Plan / IRA Distributions

- Required minimum distributions (RMDs) are waived during 2020.
- Funds may be withdrawn from qualified plans or IRAs if the withdrawal is for COVID-19-related purposes:
 - Withdrawals up to \$100K without a 10% penalty
 - Withdrawals may be repaid during the 3-year period and treated as tax-free rollovers.
 - Additional rules apply regarding taxability.

Qualified Improvement Property

- Fixed a technical error in the 2017 tax act that increased the period for deducting qualified improvement property (leasehold, restaurant, and retail property improvements) from 15 years to 39 years. These are now eligible for the 100% bonus depreciation retroactive back to 2018.

What questions do you have?



Use the Chat box now

Thank you

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