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INCENTIVES TO SUPPORT BUSINESSES IMPACTED BY THE CORONAVIRUS OUTBREAK

The United States has implemented several incentives and relief packages to address the Coronavirus (COVID-19) outbreak and the concomitant impacts on businesses. This client alert discusses some of these initiatives.

Deadline Extension for Federal Income Tax Filings

Tax filings and payments of federal income taxes were extended from April 15, 2020 to July 15, 2020, for all individuals and businesses, without incurring interests and penalties. However, to efficiently receive tax refunds, the government encourages taxpayers to proceed with their filings as soon as possible.

Individuals and businesses that need additional time to file beyond the new deadline, must request such an extension. This initiative applies exclusively to federal income tax returns and tax payments and does not apply to state tax payments, deposits or payments of any other form of federal tax.

Refundable Payroll Tax Credits for Paid Sick Leave and Paid Child Care Leave

U.S. businesses with fewer than 500 employees are entitled to receive reimbursement for the paid sick leave and paid child care leave granted to their employees. The relief is directed primarily to companies in which an employee is: (i) quarantined due to a government order or upon the recommendation of a health care provider due to COVID-19; (ii) experiencing COVID-19 symptoms and is seeking a medical diagnosis; (iii) caring for someone subject to quarantine or caring for a child whose school is closed or child care provider is unavailable for reasons related to COVID-19; or (iv) is experiencing symptoms substantially similar to those associated with COVID-19.

In situations (i) and (ii) above, the employer may claim a credit for 100% of the employee's pay, limited to \$511 a day and \$5,110 in the aggregate. In the case of events (iii) and (iv), the tax credit is 2/3 of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate. There is an additional credit for the employee's health insurance costs.

To take advantage of the credit, the employer may, (i) retain the amount of the payroll taxes equal to the amount of paid leave or (ii) file a request with the IRS for an accelerated payment, in which case the refund will likely take up to two weeks according to IRS announcements.

New York State Suspension of Mortgage Payments

Mortgage borrowers impacted by the novel coronavirus are eligible for 90-day mortgage relief if they can show an inability to make timely payments.

Under this initiative, all New York State regulated and exempt mortgage servicers were urged: (i) to offer an additional 90-day grace period to complete trial loan modifications and ensure that late payments during the COVID-19 pandemic do not affect one's ability to obtain permanent loan modifications; (ii) to ensure that mortgagors do not experience a disruption of service if the mortgage servicer closes its office; (iii) not to report late payments to credit rating agencies; and (iv) to inform the mortgagors of their rights.

NYC Waiver of Penalties for DOF-Administered Business

The NYC Department of Finance ("DOF") will waive penalties for DOF-administered business and excise taxes due between March 16, 2020, and April 25, 2020. This requires that the taxpayer make a request on a late-filed extension or return, or in a separate request marked "COVID-19" on the top center of the first page.

Although the taxpayer will not be subject to any penalties for late filing, late payment, or underpayment, interest will be applied and will be calculated from the original due date through the date of payment.

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

On March 27, the CARES Act, a \$2 trillion fiscal stimulus package, became law. The package includes the following benefits:

1. One-time direct payments to individuals as follows:
 - a. \$1,200 to adults that earn up to \$75,000;
 - b. \$2,400 for couples that file jointly as taxpayers and have a household income of up to \$150,000,
 - c. \$500 for each qualifying child;
 - d. The amounts decrease after \$75,000 for a single taxpayer and \$150,000 for joint taxpayer;
 - e. Individuals with income greater than \$99,000 or married people who have no children and have a household income of \$198,000 will not be eligible;
 - f. The income is based on either 2018 or 2019 tax filings, however even individuals who have not filed taxes but have a Social Security Number, are eligible and the payment will be based on information provided by the Social Security entity.
2. Unemployment insurance increased by \$600 per week for 4 months, in addition to the amount received from the state;

3. Loans and grants for small businesses that employ 500 employees or fewer, are provided as follows:
 - a. Grants of up to \$10,000 per business;
 - b. Forgivable loans of up to 250% of the average monthly payroll expenses of the business – up to a total of \$10 million – to cover 8 weeks of payroll expenses, interest payments on mortgages, rent payments, and leases and utility services, all of which are to be used between February 15, 2020 and June 30, 2020. If the company retains all employees, the loan will be forgiven, but if any employee is dismissed, the forgiveness will be reduced by the associated percentage decrease in number of workers.

Relief for existing loans with the Small Business Administration to cover six months of payments;
4. \$500 billion in loans for larger corporations, such as airline companies.

SBA Low-Interest Loan Program

To help alleviate the impact of economic injury caused by the pandemic, the U.S. Small Business Administration is offering loans of up to \$2 million to small business owners – in all U.S. states and territories – to pay fixed debts, payroll, accounts payable and additional bills.

Although the terms of the loans are determined on a case-by-case basis, the long-term repayment schedules reach 30 years with an interest rate of 3.75% for small businesses and 2.75% for non-profits.

NYC Relief Programs

New York City launched two relief programs to help NYC small businesses that have seen a decrease in sales of 25% or more. The programs are the NYC Small Business Continuity Loan Fund and the NYC Employee Retention Grant Program. The eligibility criteria for these programs is based primarily on the number of employees and a demonstrable loss of revenue due to the COVID-19 outbreak.

The NYC Small Business Continuity Loan Fund targets businesses with fewer than 100 employees. It offers a zero-interest loan of up to \$75,000, if the company has been in operation for at least two years, can demonstrate its ability to repay the loan and does not have any tax liens or legal judgments.

The NYC Employee Retention Grant Program is designed for those NYC businesses with between one and four employees that can demonstrate at least a 25% decrease in revenue as a result of COVID-19. The Program is focused on helping to retain employees in the face of decreased revenue and will provide a 2-month grant to cover 40% of payroll costs, if the business can demonstrate that it has been in operation for at least six months prior to application and has no

outstanding tax liens or legal judgments. Those businesses that intend to apply for a grant under this program must provide financial documents to verify the loss of revenue.

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