

Coronavirus (COVID-19)

Information and Resources for
members of the NEPGA

Essential Services – Are Courses Open?



Maine

All golf courses must cease all operations through April 30.

[Click Here](#)



Vermont

Golf courses have been deemed as non-essential and ordered to close for play as of March 25 through April 15, 2020. Golf course maintenance is allowed during this time.

[Click Here](#)



New Hampshire

Golf courses have been deemed as non-essential and ordered to close for play as of March 26 through May 4, 2020.

[Click Here](#)



Massachusetts

Golf Courses CLOSED. Course maintenance can continue as an essential service. All businesses involved in landscaping should adhere to social distancing protocols for workers and customers in accordance with guidance from the Department of Public Health. Take out food & beverage allowed.

[Click Here](#)



Rhode Island

Golf courses may be open. Social distancing strongly encouraged. Take out food & beverage allowed.

[Click Here](#)

Employees Remaining on Staff

- Requiring essential employees to report to work
- Inquiries into employee's health and medical condition and employee privacy:
 - Employee who is uncomfortable – fear of COVID-19
 - Asking if employee feels ill or when employees call in sick;
 - Sending employees who seem ill home;
 - Requiring Medical Clearance to Return to Work
- Remote work arrangements

Furlough and Layoffs

- Furlough
 - Full or partial
 - Maintain health insurance
 - Payment of premiums
 - May still be eligible for unemployment
- Layoff
 - Must pay out any unused PTO/vacation pay
 - Unemployment compensation
- Communicate with staff

Unemployment

- CARES Act
 - Extends unemployment to a total of 39 weeks
 - Adds an additional \$600 weekly to state benefits
 - Expands eligibility to those who are self employed or independent contractors

Families First Coronavirus Response Act

- Sick Leave – requires new paid sick leave of 10 days (80 hours).
- FMLA – extends and expands the protection of FMLA, including requiring paid leave benefits.
- Tax Credits – uses tax credits to help defray the costs of paying these benefits.

Sick Leave Under the FFCRA

- Permits employees to use sick leave related to COVID-19.
- Applies to employers with *fewer than 500 employees*.
 - *Secretary of Labor shall have authority to issue regulations to:*
 - *Exclude certain health care providers and emergency responders.*
 - *Exempt small businesses with fewer than 50 employees when compliance would jeopardize the business.*
- All full-time employees (subject to limited exceptions) regardless of their length of employment are entitled to take 80 hours paid sick leave immediately. Part-time employees get a pro-rated amount.
- These new sick leave amounts are in addition to and not in lieu of any other statutorily provided or employer-provided paid sick leave benefits, and further, employers must permit employees to use COVID-19-related sick leave before other sick leave.
- These amounts cannot be carried over into the new year, nor are they paid out at termination.

Reasons Employee May Use Sick Leave

- Employees could use this sick leave where they cannot work or telework because:
 1. They are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 2. The employee has been advised by a health care provider to self-quarantine due to COVID-19-related concerns;
 3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 4. The employee is caring for someone who is subject to a quarantine or isolation order or who has been advised to self-quarantine;
 5. The employee is caring for a child if the child's school or place of care is closed or the child-care provider is unavailable because of COVID-19 precautions; or
 6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.

How Much is Paid?

- Employers are required to pay an employee:
 - Regular rate of pay up to a cap of \$511 per day and \$5,110 in the aggregate for sick leave used under reasons (1)-(3) above:
 - employee quarantine or isolation order;
 - self-quarantine recommendation; or
 - experiencing symptoms and seeking treatment.
 - 2/3rds his or her regular rate of pay capped at \$200 per day and \$2,000 in the aggregate for sick leave used under reasons (4)-(6) above:
 - caring for others and additional government-specified conditions.

Notice and Effective Dates

- Employers must post a notice related to this section in a conspicuous place in the workplace. A model notice will be provided by the Department of Labor by next week.
- The law also goes into effect April 1, 2020 and remains in effect until December 31, 2020.

Expansion of FMLA

- The new law applies only to employers with *fewer than 500 employees*.
 - Employers under 50 employees may be exempt
- Employees working for at least 30 days for a covered employer are eligible immediately to use leave.
- Eligible employees may take up to twelve (12) weeks of job-protected FMLA leave where they are unable to work or telework because of the following:
 - A need for leave to care for a son or daughter if their (primary or secondary) school or place of care has been closed, or their child-care provider is unavailable, because of a public health emergency declared with respect to COVID-19- coronavirus.
- The law goes into effect April 1, 2020 and remains in effect until December 31, 2020.

FMLA Expansion

- The first 10 days of FMLA leave is *unpaid*, but employees may *elect* to substitute accrued vacation, personal leave, or sick leave for the unpaid leave under this section.
- An employer may not require such substitution.
- After the 10 days are exhausted, employers must pay:
 - two-thirds of the employee's regular rate of pay for each day of FMLA leave taken thereafter, capped at \$200 per day, and \$10,000 in the aggregate.
- For the most part, this is job-protected leave. But employees taking leave provided under this law do not have any greater right to continued employment than those not on leave, and further, there are some additional limitations to job-protection rights for employees working at an employer with fewer than 25 employees.

Tax Credits – Sick Leave

- The Act allows employers to claim a credit against the employer's portion of Social Security and Medicare taxes for each calendar quarter in an amount equal to 100% of the qualified sick leave wages it paid with respect to such quarter.
- The credit is limited to \$511 per day if the employee is taking sick leave to care for themselves and \$200 per day if the employee is taking sick leave to care for a family member or child when the child's school is closed.
- The credit is only available for up to 10 days of qualified sick leave wages per employee.
- The credit cannot exceed \$5,110 if the employee is taking sick leave to care for themselves and \$2,000 if the employee is taking sick leave to care for a family member or child when the child's school is close.
- The credit cannot exceed the employer's tax liability. If the credit exceeds the overall limitation, the employer can apply for a refund.

Tax Credit – FMLA Leave

- The Act also allows employers to claim a refundable credit against their Social Security and Medicare tax liability for each quarter in an amount equal to 100% of the qualified family leave wages paid for such quarter.
- For purposes of calculating the credit, the amount of qualified family leave wages paid to any individual that may be taken into account for a quarter cannot exceed (i) \$200 per day (or portion thereof) and (ii) \$10,000 in the aggregate for all calendar quarters.
- The amount of the credit is increased by the employer's qualified health plan expenses as are properly allocable to the qualified family leave wages for which such credit is allowed.
- The credit is subject to the same overall limitation as the credit for qualified sick leave wages, and the employer may claim a refund.

CARES Act – Financial Relief

- SBA Loans
 - Paycheck Protection Program
 - Economic Injury Disaster Loan
- Tax incentives
 - Employee Retention Credit
 - Deferral of Social Security Tax Liability
 - Net Operating Loss

Payroll Protection Program

- Does not apply to 501(c)(6) – business associations or 501(c)(7) - clubs, amateur sports, country clubs
- \$350 billion allocated to small businesses to help retain employees amid the pandemic
- Loans are advanced to cover payroll and certain covered costs for an 8-week period during February 15, 2020 and June 30, 2020
- Loans may be forgiven if borrowers retain employees
- Eligibility – higher of:
 - Employers having less than 500 employees including non-profits and sole proprietorships (including full-time, part-time and employees of commonly owned companies) OR
 - The size standards under the SBA if higher.
- 2.5 times the average total monthly payroll costs incurred in 2019

Payroll Protection Program

- Payroll Costs include:
 - Salaries, wages, commissions and payment of cash tips or equivalent (including state and local payroll taxes)
 - Vacation, parental, family, medical or sick leave
 - Severance payments
 - Health care benefit costs and retirement benefits
- Payroll Costs exclude:
 - Compensation to any employee in excess of an annual salary of \$100,000
 - Federal payroll taxes
 - Qualified sick leave or family leave wages paid if a credit is received under the Families First Coronavirus Response Act
- Borrowers are eligible to have their loans forgiven.
 - A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:
 - Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
 - Interest on the mortgage obligation incurred in the ordinary course of business
 - Rent on a leasing agreement
 - Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- The loan forgiveness cannot exceed the principal.
- The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees.

Loan Program Comparison

Overall	Paycheck Protection Program (PPP)	SBA Economic Injury Disaster Loan (EIDL)
Maximum Loan Amount	2.5 times monthly payroll costs capped at \$100k per employee, maximum of \$10 million per borrower	Up to \$2 million
Eligible Borrowers	Small businesses with fewer than 500 employees	Business that meet the SBA size standards
	Businesses that meet the SBA size standards	
	Select types of businesses with fewer than 1,500 employees	
	<u>Non profits</u> with fewer than 500 employees	
	Some 501(c)(19) veteran organizations, self-employed workers, sole proprietors, and freelance or gig economy workers	
Use of Proceeds	-Payroll	-Payroll
	-Utilities	-Equipment and machinery purchases
	-Real estate payments	-Real estate payments
		-Other bills you cannot pay due to COVID-19
Collateral/Personal Guarantee	Waived	Personal guarantee required - will take collateral
Affiliation	Applicable	Applicable
Credit Elsewhere	Waived	Waived
Forgivable	Yes, up to 100%. Forgiveness of indebtedness of an amount equal to the sum of the qualified costs incurred and payments made during the covered period (8-week period following loan origination). Forgiven portion may be reduced by a reduction in retained employees or reduction in pay of retained employees.	No
Interest	0.5% for non-forgiven portion (as of 4/2, potential to go to 1.0%)	3.75% businesses and 2.75% for non-profits
Term	2 years for non-forgiven portion (10-year amortization)	Up to 30 years

Employee Retention Credit

- Businesses and non-profits that do not receive SBA loans eligible for forgiveness may be able to take advantage
- Purpose is to encourage employers to retain employees, despite shut-downs and decline in business
- Eligibility
 - Businesses operating in 2020 that either
 - Had to suspend operations partially or entirely due to a COVID-19 order OR
 - Sustain a decline in revenues of 50% compared to the prior year's quarter
- Credit
 - For employers with 100+ employees, 50% credit can be taken on employee wages and health plan costs paid for employees not working. *For example, wages paid to employees in lieu of furloughing will be eligible for this credit if they are not working*
 - For employers with 100 or less employees, 50% credit can be taken on any employee wages and health plan costs paid
 - In both cases, credits are limited to 50% of the first \$10,000 of wages and health plan costs per qualifying employee
 - Credit applied to the quarterly payroll tax return
- Credits anticipated can be requested in advance by filing form 7200 (in draft form)
- Employers taking a Payroll Protection Loan cannot take an employee retention credit

Deferral of Employer Social Security Tax Liability

- Background: Employers are liable for 6.2% of social security tax on the first \$137,700 of an employee's wages. This tax is normally payable throughout each calendar quarter.
- CARES Act provides an option to defer this liability which is incurred between March 27 through December 31, 2020 and payable as follows:
 - 50% due by December 31, 2021
 - 50% due by December 31, 2022
- Available to all employers
- *For example:*

An employer with 75 employees earning \$125,000 each would incur social security taxes of approximately \$580,000 for the year, \$436,000 attributable to the last 9 months. The employer's remaining 2020 payroll tax could be deferred as follows:

Payable December 31, 2021 \$218,000

Payable December 31, 2022 \$218,000

- Check with payroll company for implementation of this deferral
- Employers taking a Payroll Protection Loan cannot defer their payroll tax under this provision

Net Operating Loss

- CARES act provided relief by adjusting the carryback rules
- Losses in tax years 2018, 2019 and 2020 can be carried back five years
- Allowing NOLs to offset 100 percent of taxable income
- May amend prior returns to obtain the loss benefit

Questions

For questions, please contact:

Jenifer Pinkham

Phifer Pinkham, LLC

617-409-7409

covid19@phiferpinkham.com

or

Jeff Bastien

Rogers Gray

jbastien@rogersgray.com