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Emergency Relief in New Coronavirus Law for Corporations Severely Affected by the Coronavirus Pandemic

Forgivable loans used by ‘small’ employers to retain employees – SBA-eligible small businesses, and any hospitality or food service company that employs less than 500 workers “per physical location”, can obtain loans of up to \$10 million for the purpose of keeping workers on payroll with full pay and benefits. Loan amounts used for payroll costs, rent, and utilities can be fully forgiven.

Employee Retention Credits – Provides employers with a refundable payroll tax credit, capped at \$10,000 per employee, for 50% of wages and benefit costs paid by employers to employees from March 13, 2020 through Dec. 31, 2020.

Delay in payment of employer payroll taxes - Employers may delay payment of 100% of the employer share of social security taxes due through the end of 2020. The deferred amounts are paid over the next three years in two installments: 50% on Dec. 31, 2021, and 50% on Dec. 31, 2022.

Increase allowable interest deductibility - Increases the amount of interest expense from business loans that businesses (both corporations and partners in partnerships) are allowed to deduct, by increasing the limitation from 30% of adjusted taxable income to 50%.

Ability to apply recent business losses against taxes paid in past five years to create rebates – the new law includes various changes to the tax code that have the cumulative effect of allowing companies with substantial business losses in 2018, 2019 and/or 2020 to “carryback” those losses to the previous five years of tax returns, which for some companies will result in substantial tax rebates.

Qualified Improvement Property Adjustment – this provision is a technical correction to the Tax Cuts and Jobs Act of 2017, that provides some companies a windfall by changing the way facility improvements are depreciated. The provision allows companies to amend previous years’ tax returns using the new depreciation rules which for some companies could result in substantial rebates.

Access to \$454 billion loan program administered by US Treasury Secretary – the new law gives Treasury Secretary Mnuchin broad discretion to make loans to small and large businesses that experienced significant business losses as a result of the Coronavirus pandemic. Recipients are restricted from buying back their stock or making dividends until 12 months following the loan becoming due; are subject to limits on increasing executive compensation; and are required to “maintain [their] employment levels as of March 24, 2020, to the extent practicable” until September 30, 2020.”

Emergency Relief for Airlines

\$25 billion for emergency loans – Provides loans of no more than 5 years duration to U.S. passenger airlines. Recipients are restricted from buying back their stock or issuing dividends, are limited in their ability to increase executive compensation, must maintain 90% of their March 24th employment levels through September 2020, and can be required to maintain, until March 2022, service to all locations served as of March 1, 2020. The government receives a warrant or equity interest in the companies accepting loans. The Government cannot make the loans contingent on labor concessions.

Employee retention grants for airlines and contract caterers – The law provides an additional \$25 billion in grants for the exclusive purpose of continuing Airline and contract catering employee pay and benefits. Each eligible company is entitled to the amount of wages, salaries, benefits, and other compensation paid to its employees during the period from April 1, 2019, through September 30, 2019. Cargo airlines can access a total of \$4 billion of such grants, and airline contractors - including airline caterers - can access a total of \$3 billion in retention grants. In addition to restrictions on stock buybacks and executive compensation, grant recipients cannot layoff employees until September 30, 2020.

The procedures for applying for these funds will be put forward by Mnuchin within the next 5 days. Secretary Mnuchin has another 5 days after that to get the funds to those who apply and qualify.

Whether the contractors decide to apply for these retention grants depends in part on whether they are willing to accept the law's limitations on what they can pay their top managers and executives. While the new law could provide catering companies and catering security companies with funds to pay employees through September 30th, 2020, there continues to be a severe lack of work to do, and that is getting worse not better. We will need to work with the employers about what our members can safely do, and what would be the most fair way of scheduling that work.

"Excise Tax Holiday" until January 2021. Relieves airlines from paying various taxes including passenger ticket taxes and federal jet fuel taxes, the latter of which totaled \$15.8 billion in 2018.

Emergency Relief for Airports

\$10 billion for "Grants-in-Aid" – The law provides the FAA with the authority to grant up to \$10 billion to airports with few strings attached. Approximately \$5.7 billion will be distributed based on number of 2018 enplanements. Approximately \$3.7 billion will be distributed based on each airport's debt burden and available cash relative to other airports. Airports receiving these grants must maintain 90% of their own direct staff through December 31, 2020, although this requirement can be waived by the Treasury Secretary.