

Government Affairs Policy Update

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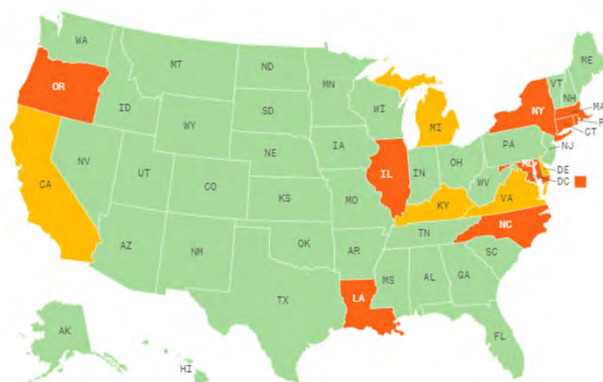
Palmer Schoening, Chair, Family Business Coalition

Alex Ayers, Executive Director, Family Business Coalition

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Reopening America

■ Partial reopening underway ■ Partial reopening planned ■ Statewide stay-at-home order intact

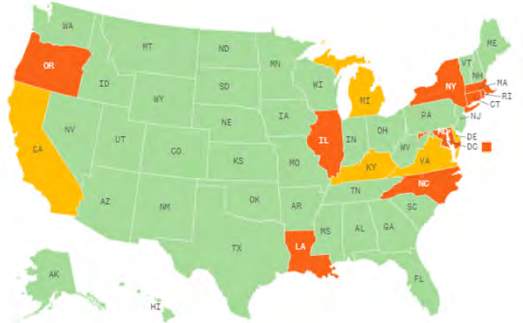


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One Size Doesn't Fit All



■ Partial reopening underway ■ Partial reopening planned ■ Statewide stay-at-home order intact



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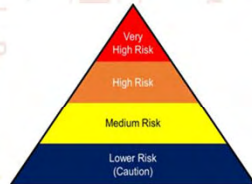
OSHA Guidance

- Engineering controls – reduce hazards without relying on employee behavior
- Administrative controls – require action by workers to minimize hazards
- Personal Protective Equipment (PPE)
- “[I]t is not a standard or a regulation, and it neither creates new legal obligations nor alters existing obligations.”

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OSHA Hazard Assessment

- OSHA identifies four classes of occupational exposure to COVID-19:



- Workers' individual risk factors (e.g., older age; presence of chronic medical conditions, including immunocompromising conditions; pregnancy).

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Potential Legal Implications/Liability



Employment claims
including discrimination



Worker's compensation



Tort liability including
wrongful death

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Resources

NAED Covid-19 Response <https://www.naed.org/resources>

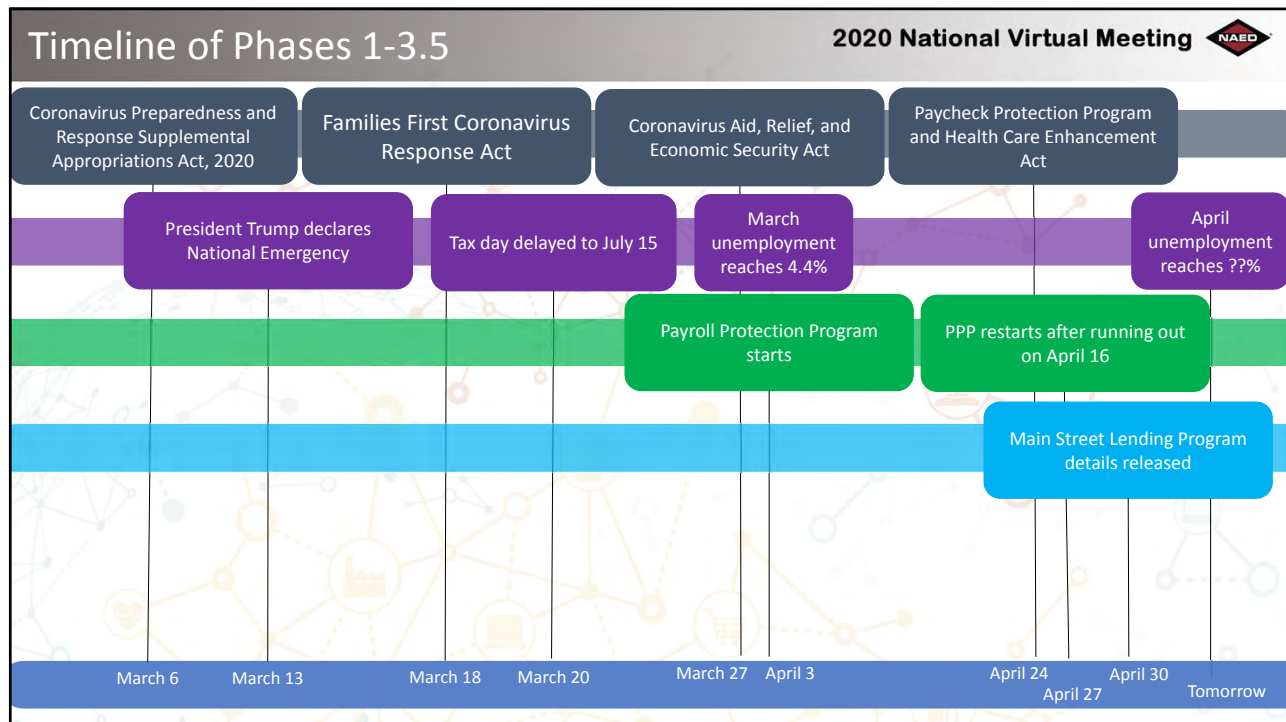
OSHA

- OSHA Guidance on Preparing Workplaces for COVID-19: <https://www.osha.gov/Publications/OSHA3990.pdf>
- OSHA COVID-19 Topic Website: <https://www.osha.gov/SLTC/covid-19/>

CDC


- CDC Guidance for Businesses: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>
- CDC Community-Specific Guidance: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>

Legislation dealing with COVID-19



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Business stimulus fit into four categories

2020 National Virtual Meeting 

- Mandatory paid sick and family leave**
 - Families First Coronavirus Response Act
- Retroactive tax changes to access capital**
 - Net Operating Losses
 - Business Interest Deduction limit changes
- Loan Programs**
 - SBA Paycheck Protection Program
 - Economic Injury Disaster Loans
 - Federal Reserve Main Street Lending Program
- Limited use tax deferrals, credits, and unemployment**
 - Deferred employer payroll taxes
 - Employee retention tax credit
 - Unemployment Benefits

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Phase 2: Families First Coronavirus Relief Act

- Contains two major components affecting employee leave
 - Emergency Paid Sick Leave (E-PSL)
 - Emergency Paid Family and Medical Leave (E-FMLA)
- Both provisions go into effect on April 1, 2020 through December 31, 2020 (for now)
- Affects all businesses below 500 employees
- Both sets of leave are in addition to already existing leave policies
- Employers must post signs informing employees of this requirement (posters available at: <https://www.dol.gov/agencies/whd/pandemic>)

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Phase 3: CARES Act

- Included \$2 trillion in stimulus
 - Loans from Small Business Administration
 - Federal Reserve Main Street Lending Program
 - Direct stimulus to Americans
 - Deferred payroll taxes for employers not participating in loan programs
 - Increased unemployment benefits

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SBA Paycheck Protection Program

- Small Business Administration is offering forgivable loans to small employers to maintain payroll and business operations
 - 2.5 times the average of one month of payroll
 - 8 weeks of payroll
 - Additional funds for rent/mortgage interest and utility payments
- \$349 billion initial funding
- \$310 billion in additional funding
 - Nearly depleted
- Forgiveness for funds used on approved uses, unforgiven portion repaid in 2 years at 1% interest

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Main Street Lending Program

- Designed to help small and medium sized businesses (0-15,000 employees)
- Term sheets released, but waiting on guidance from Treasury
- Loans not grants/forgiven, 4 year term, LIBOR + 300 basis points
- Three types of loans
 - Main Street New Loan Facility – from \$500k to lesser of \$25M or 4 X EBITDA
 - Main Street Priority Loan Facility – from \$500k to lesser of \$25M or 6 X EBITDA
 - Main Street Expanded Loan Facility – \$10M to lesser of \$200M, 35% of outstanding and undrawn available debt, or 6x 2019 adjusted EBITDA minus outstanding and undrawn available debt

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Tax provisions for businesses without loan assistance

- Tax provisions are limited if using the Paycheck Protection Program or Main Street Lending Program
- Deferred employer portion of payroll taxes through Dec. 31, 2020
 - Must be paid back, half in 2021, half in 2022
 - Effectively interest free loan if you have some cashflow
- Employee retention tax credit
 - Eligible to receive 50% of wages as refundable tax credit up to \$10,000 in wages per employee (\$5,000 max credit per employee)
 - Must show economic harm
 1. operations were fully or partially suspended, due to a COVID-19- related shut-down order, or
 2. gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

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Additional tax provisions without loan limitation

- Retroactive changes to 2018 or 2019 Net Operating Losses or excess business losses that you can carryback 5 years
 - IRS will issue refunds on previous years tax payments
 - Also available for 2020 filing next year
- Business Interest Expense Deduction
 - For businesses with limited business interest expense (averages more than \$25 million in revenue over 3 years) can deduct interest up to 50% of taxable income for 2019 and 2020.
 - No guidance yet, but limitation on stimulus loans likely

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How do these apply to your business?

Businesses with >500 employees

- **Mandatory paid sick and family leave**
 - Families First Coronavirus Response Act

Accessible to all businesses

- **Retroactive tax changes to access capital**
 - Net Operating Losses
 - Business Interest Deduction limit changes

Only one or the other, not both

- **Loan Programs**
 - SBA Paycheck Protection Program
 - Economic Injury Disaster Loans
 - Federal Reserve Mid-size Business Loans

OR

- **Limited use tax deferrals, credits, and unemployment**
 - Deferred employer payroll taxes
 - Employee retention tax credit
 - Unemployment benefits

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Phase 4

- Still being written, very political issues to resolve
- Some Senators proposed changes to PPP
- NAED priorities include
 - Protecting PPP from retroactive changes,
 - Ensuring tax deductibility of wages paid with PPP funds, and
 - Limiting impact of increased unemployment payments

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