



Preparing Your Business *for Reopening*

May 11, 2020

But first,
some quick updates



Employee Retention Tax Credit

Period: Payrolls between March 13, 2020 - December 31, 2020

A fully refundable tax credit for businesses for which operations are fully or partially suspended due to a governmental order or a calendar quarter in which the employer experiences a significant decline in gross receipts

The credit covers to 50 percent of payroll on the first \$10,000 of compensation, including health benefits, for each employee.

For employers with more than 100 full-time employees, the credit is for wages paid to employees when they are not providing services because of the coronavirus.

Eligible employers with 100 or fewer full-time employees could use the deduction even if they aren't closed.



ERTC: Employers with over 100 employees that have furloughed or laid off their employees but are still paying 100% health plan expenses may use the ERTC now:

Example 3: Employer C is subject to a governmental order that fully suspends the operations of its trade or business. Employer C lays off or furloughs its employees and does not pay wages to the employees, but does continue to cover 100 percent of the employees' health plan expenses. In this case, Employer C may treat as qualified wages the health plan expenses that are allocable to the time that the employees are not providing services."

Qualified Health Expenses: All section 125 plans, Health FSA and HRAs.



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States are
beginning
to reopen...



What's the status in YOUR state?

Virginia

- Certain businesses allowed to open on May 14, in phases, with restrictions
- Stay at home order expires June 10

Tennessee

- Many businesses now allowed to open in most counties
- Stay at home order expires May 30

Texas

- All retail, restaurants, movie theaters and libraries allowed to open, with capacity limits
- Stay at home order expired May 1



States are beginning to reopen

North Carolina

- Certain businesses now allowed to open in phases
- Stay at home order expired May 8

Florida

- Many businesses in most counties now allowed to open, with capacity limits
- Stay at home order expired April 30

California

- Certain businesses allowed to open with curbside pick up and physical distancing
- Stay at home order still in place, no expiration date



Where to begin

Returning employees to the workplace won't be as simple as announcing a reopening and carrying on business as usual. Some changes may be long term, even beyond the "finish line."

The details of each employer's plan to return will look different.

Appoint a COVID-19 point person or form a committee.



Safety First

- Upgrade your cleaning procedures and purchase supplies.
- Implement screening procedures (consistently and fairly).
- Provide personal protective equipment (PPE), plexiglass barriers, six-foot markers, door props, and reminder signage. Enforce this!
- **Physical distancing still matters.**
 - Stagger shifts and breaks.
 - Rotate weeks in the office.
 - Physically separate workstations.
 - Establish one-way traffic patterns.
- **Exposure is STILL A RISK. Have a plan for when/if an employee has been exposed:**
 - Isolation, containment and contact tracing procedures.
 - Stay-at-home requirements.
 - Exposure communications to staff. PROTECT PRIVACY THOUGH!



Safety First

- Allow essential travel only (and define what is essential).

- How will you interact with your customers?

- Direct customer traffic.
- Limit the # of customers.
- No handshakes! Stay six feet apart!
- Use technology.
- Provide contactless pickup and delivery.

- Read up on OSHA's record-keeping and reporting rules:

- Identify positions with the potential for exposure.
- Review OSHA regulation 29 CFR § 1904

Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in §1904.5(b)(2) specifically applies



Communicate all of these plans
and procedures to your team!



The Workforce Returns

- Phase the Return to Work using consistent criteria (seniority? job function? at-risk population?)
 - Adjust schedules as necessary
 - Recall your workforce in writing. Document in writing any that refuse to return to work for any reason.
- Allow employees in high-risk categories to work from home or remain on leave until they feel comfortable to return.
 - If that's not possible, take measures to protect them when working onsite
- Notify your state's unemployment agency of the employees that have been recalled to work.
- Communicate all of your plans and precautions to the team.



How do we handle employees who are unable or unwilling to return to work?

- Employees who are fearful of returning to work.
- Employees who have family obligations that interfere with the ability to return to work.
- Employees who remain under quarantine due to exposure to COVID-19.



What if someone doesn't *want* to return?

CAUTION!

Recalled employees may have a right to job-protected leave under a city ordinance, state law, or the federal Families First Coronavirus Response Act (FFCRA).

Employees who are in a high-risk category may be entitled to a reasonable accommodation under the Americans with Disabilities Act (ADA) or state law if their situation doesn't qualify them for leave under the FFCRA (or if they have run out of that leave).

It would be a reasonable accommodation under the circumstances to allow the employee to work from home or take an unpaid leave.



What if someone doesn't *want* to return?

Employees who live with someone who is high risk are **NOT** entitled to a reasonable accommodation under **federal law**, but still consider allowing them to work from home if possible or take an unpaid leave. If you want to keep them, being compassionate and flexible is your best bet.

OSHA Rules: an employee's refusal to perform a task will be protected if all of the following conditions are met:

- Where possible, the employee asked the employer to eliminate the danger, and the employer failed to do so
- The employee refused to work in “good faith,” which means that the employee must genuinely believe that an imminent danger exists
- A reasonable person would agree that there is a real danger of death or serious injury; and there isn't enough time, because of the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.



Can't we just replace them?

Instead of replacing employees who express fear about contracting COVID-19, consider methods to encourage employees to come to work and to help put their minds at ease.

- Emphasize all of the safety methods you have put in place.
- Sweeten the deal with some additional benefits such as premium pay (a.k.a. hazard pay) or additional paid time off for use in the future.



What if they turn us down because of unemployment benefits?

- They are technically not eligible for unemployment benefits if they refuse to return to the same job with same wages/hours as before they were furloughed.
- Encourage them to come back as a long-term solution. Unemployment benefits are not a long-term solution.
- Send your state's employment agency a notice of workers who were recalled and note those that refuse to return due to unemployment.
- Ask for refusals in writing or have verbal conversation with another person present.



Benefits

- **Group health insurance**

- Redetermine waiting-period or eligibility issues due to leave or reinstatement.
- Review coverage changes, such as adding telehealth benefits.
- If you paid employee premiums during leave, determine how or if you will recover those costs from employees.

- **Flexible spending accounts**

- Review Dependent Care Assistance Program election changes with employees to ensure their new or revised elections are correct.
- Over-the-counter medical products are now allowed under flexible medical accounts on a permanent basis and should be included in plan documents and communications.
- Address new flexible spending account elections and allowable changes with employees.



Benefits

- **401(k) or other pension plans**

- Review eligibility issues due to layoff or furlough.
- Consider any break in service issues or counting years of service concerns.
- Review any in-service loans employees may have or will want to take, including eligibility and pay back procedures.

- **Paid leave**

- Review required leave under the Families First Coronavirus Response Act (FFCRA), ensure employees understand the eligibility requirements and provide them with the US DOL Model Notice (aka the poster). Create a way to track time used and collect supporting documentation for tax credit purposes.
- Determine if there will be company PTO policy changes, including increasing or decreasing paid leave benefits, or additional restrictions in using paid leave.
- Understand the coordination of leave benefits and communicate these to employees as needed.



Compensation

- How to handle any missed annual pay increases and if those will be applied retroactively.
- Will any pay cuts be made or revoked? Understand how to reduce salaries for exempt employees if necessary.
- Determine if employee status changes—exempt to nonexempt or full- to part-time status—are needed to reopen or if those already made will continue.
- How will bonuses be affected, including eligibility for or continuation of, etc.
- Will hazard pay be offered or revoked?
- It may be a good time to consider a pay equity audit as workers return, as pay may have been reduced or frozen and may have impacted certain employees differently.



Remote Work

Telecommuting may have proven to work well during the pandemic for some employers and employees. Using it not only as a short-term emergency tool to survive the next year but also as a permanent work/life balance and cost-saving measure should be considered.

- Continue to allow remote work where possible to keep employees safe.
- Stagger weeks in office and at home, or part-time remote work on alternate weekdays.
- Determine how to respond to employee requests to continue to work from home, including long-term arrangements.
- Update technology to support remote workers.
- Use a Work from Home agreement. Sample is available on our website.



Communications

Things to communicate:

- How will staying home if sick and physical distancing policies be used to protect workers and customers.
- What training on new workplace safety and disinfection protocols have been implemented.

Things to have ready:

- Exposure-response communications to any affected employees and customers.
- Media communications on return-to-work timetables, safety protections in place, and how else the company is supporting workers and customers.



New Hires

Employees returning to work who remained on the payroll would generally not need to complete new paperwork. However, for those separated from employment, such as laid-off workers, it may be best to follow normal hiring procedures.

- Determine application and benefits enrollment requirements for rehired workers.
- Decide whether you will use full or adjusted orientation procedures.
- Submit new-hire reports for new and rehired workers.
- Notify state unemployment agencies of recalled workers, whether rehired or not.
- Address I-9 issues
 - If completed remotely, complete in person upon return to the workplace.
 - Update any expired work authorization documents or make note of which need updating as soon as new documents are received by the employee.
 - Determine if you will have employees complete Section 3 of their original I-9 or complete a new I-9 form.



“New Normal” Policies

Some examples of “new normal” policy changes include:

- Paid-leave policies adjusted to reflect regulatory requirements and actual business needs.
- Attendance policies relaxed to encourage sick employees to stay home.
- Time-off request procedures clarified to indicate when time off can be required by the employer should sick employees need to be sent home.
- Flexible scheduling options implemented allowing for compressed workweeks and flexible start and stop times.
- Meal and rest break policies adjusted to stagger times and processes implemented to encourage physical distancing.
- Travel policies updated to reflect essential versus nonessential travel and the impact of domestic or global travel restrictions.
- Telecommuting policies detailed to reflect the type of work that is able to be done remotely and the procedures for requesting telework.
- Information technology policies revised to reflect remote work hardware, software and support.



Business Continuity

You likely have learned valuable lessons regarding business continuity. Now is the time to review and revise the plan to prepare for future emergencies.

- Implement a business continuity plan, including infectious disease control.
- Amend existing plans to include the latest emergency information, such as updates on epidemics and workplace considerations or changes in protocols for responding to global disasters.
- Update plan resources and contact information to ensure accuracy.
- Establish a pandemic task force to continuously monitor external and internal data and implement appropriate protocols. Recognize the possibility of additional closings during this current pandemic as COVID-19 infections may rise and fall again, triggering more stay-at-home orders and supply chain disruptions.
- Perform testing and exercises to practice the new or revised emergency plans to make sure employees know what to do and to find any missing parts that need to be addressed.



Additional Best Practices

- Train managers on how to work with employees who are facing increased personal challenges and stress (loved ones affected by the virus, children and/or elderly parents at home, financial stress, etc.)
- Be flexible and adjust workloads to be reasonable.
- Use your Employee Assistance Program (EAP) or consider getting one if you don't already offer.
- Update your handbook!
- Communicate your appreciation as you welcome employees back to work.



We are answering your questions live on the air right now.

Please submit questions through the **Q&A function**,
not the chat option at the bottom of your screen.



Questions?

Please email:

questions@dominionpayroll.com

For resources, updates, webinar schedule, and FAQ's, please visit our

[COVID-19 Updates & Resources page](#)



As requirements change and laws are passed, we will update you as soon as possible.

Don't forget to wash your hands!

