



Monday, May 18, 2020

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COVID-19 Employment Law Update

Being quarantined has forced us to be creative at home.
One of our favorites has been date night at “Restaurant Quarantine”.

Dear Clients and Friends,

I hope that all of you are safe and healthy as this crisis continues. I know that many of you are now juggling working, teaching, parenting, chef and janitor, all at once. Be kind to yourself during this time.

I have learned from some clients that they are re-opening with limitations. Keep in mind that you will want to implement health and safety protocols that comply with [Cal-OSHA](#) and [CDC](#) guidelines, as well as written policies around health, safety, return to work and sick leave.

I have also heard from some clients about the Paycheck Protection Program funds. There are still a lot of questions around the PPP and many concerns around loan forgiveness.

I recommend that you speak with your CPA or tax advisor and your lender. You should also keep an eye out for additional guidance from the SBA.

Paycheck Protection Program

Here are a few ideas and thoughts related to the PPP that I have learned over the past week. Again, speak with you CPA or tax advisor.

- Place the PPP funds in a separate bank account to ensure the funds are not commingled and that you are easily able to track expenses.
- Cash flow v. loan forgiveness: If you received PPP funds but are not ready to use the funds since your business is closed or open on a limited basis, consider with your CPA/tax advisor whether you should use PPP funds now with possible loan forgiveness or hold onto PPP funds to ensure better cash flow with less loan forgiveness.

- Rina Accountancy has some helpful PPP Loan [Tools](#) to help you figure out your FTE Employee, Cost Tracking and Salary Forgiveness.
- The Treasury Department has issued [FAQs](#) about the Paycheck Protection Program. One FAQ added on May 3, 2020, is question 4 below regarding PPP loan forgiveness amount for an employer who offers a position to an employee who declines the position.

Question 40: Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?

Answer: No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation

The IRS issued a [notice](#) related to the PPP. This notice clarifies that if the PPP loan is forgiven, a company cannot take a deduction under the Internal Revenue Code for an expense that is otherwise deductible. Apparently, there is some controversy around this notice so contact your tax advisor or CPA for the most current updates.

As always, please feel free to reach out with any questions.

All the best,

Leiann Laiks

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