



THE CARES ACT LOAN PROGRAM

What Restaurants Need to Know

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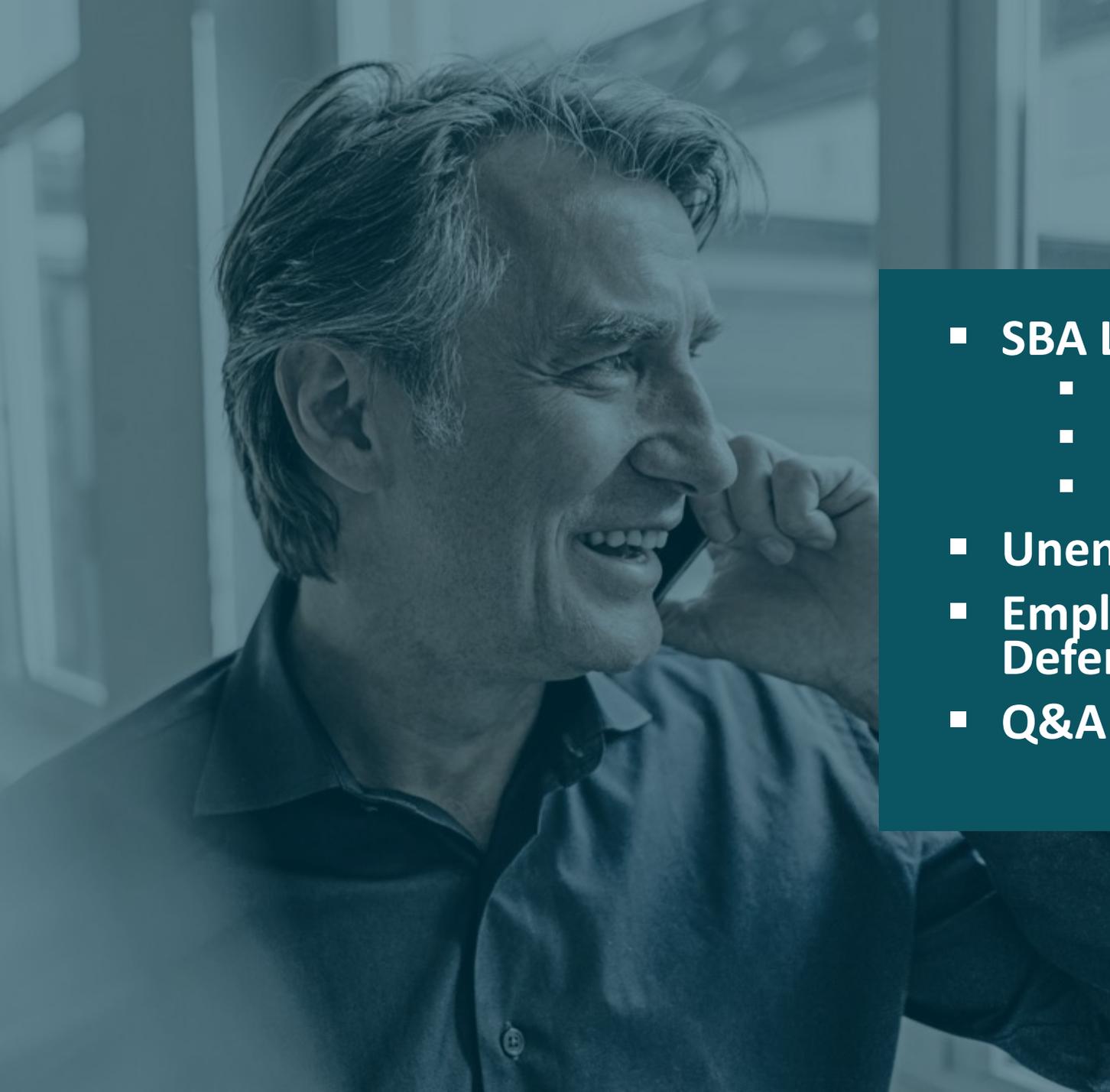
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Friday, April 3 | Webinar will begin at 11:00 a.m.

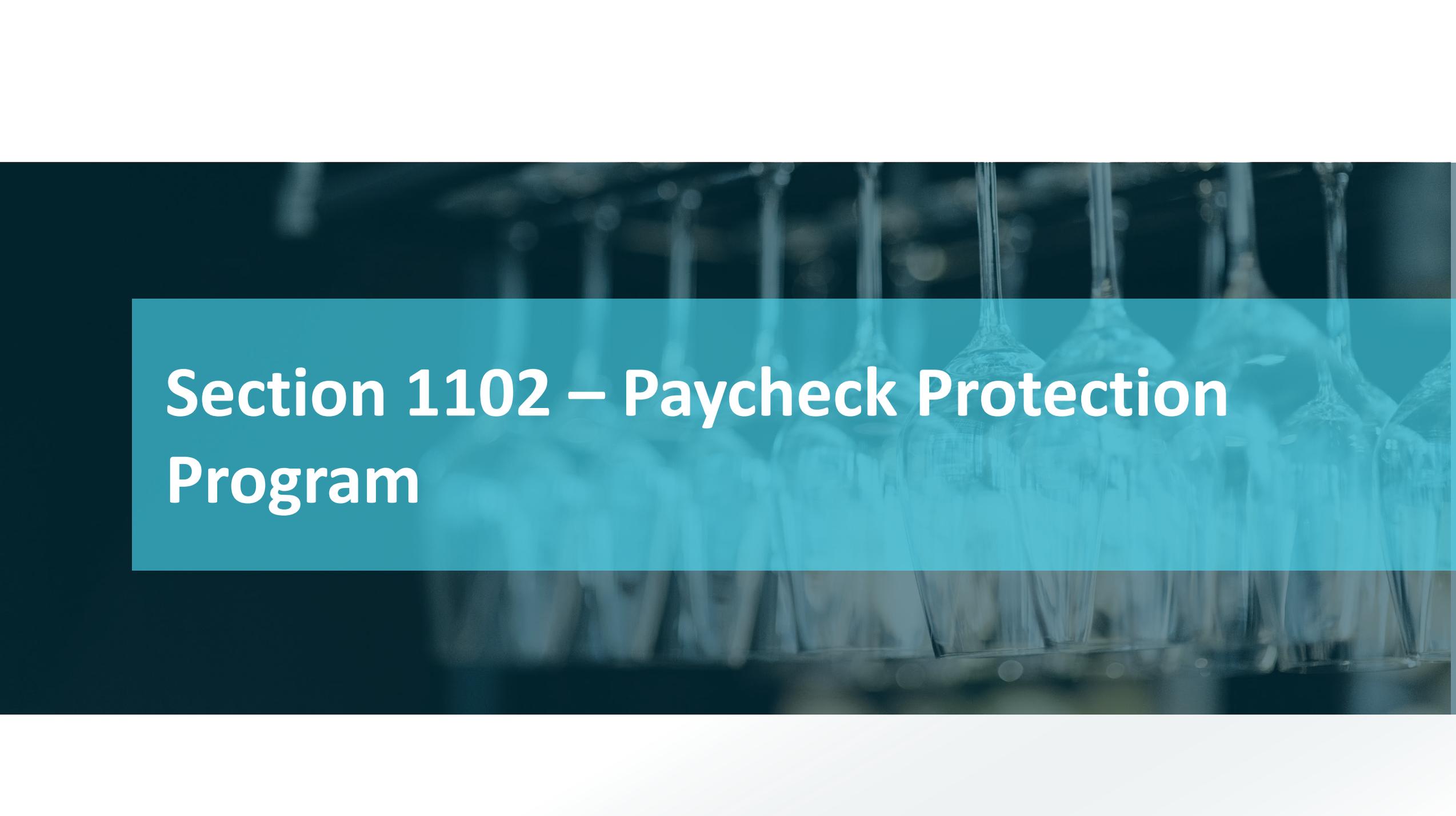
Please note:

- **The information provided is not legal advice. We will not be able to provide individualized answers to an operator's particular circumstances. We urge our restaurant operators to consult with retained professionals to secure legal and tax compliance.**



Agenda

- **SBA Loans:**
 - Paycheck Protection Program
 - Loan Forgiveness
 - Economic Injury Disaster Loan
- **Unemployment Insurance**
- **Employee Retention Tax Credits and Tax Deferrals**
- **Q&A**

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Section 1102 – Paycheck Protection Program

The Basics

Generally, companies with 500 or less employees are eligible for “Paycheck Protection” Loans under Sect. 1102. The CARES Act exempts companies classified under NAICS Sector 72 (Accommodation and Food Services) and who employ not more than 500 employees per physical location, as well as any business that receives “financial assistance” from a Small Business Investment Company (SBIC).

- **Eligibility considerations include whether the business**
 - Was in operation on February 15, 2020, and
 - Had employees whom the borrower paid salaries and payroll taxes, or
 - Paid independent contractors

The Basics (Continued)

- **The eligible recipient is required to make a good faith certification that**
 - **Due to the uncertainty of the current economic conditions it is necessary to obtain the loan to support ongoing operations of the business**
 - **The funds will be used to retain workers and maintain payroll or make mortgage, lease or utility payments, and**
 - **You have not and will not receive another loan under this program (you may still apply for the Economic Injury Disaster Loan in addition to an SBA/PPP)**

The Finer Points

- **Covered employers may receive loans up to a maximum amount equal to the lesser of:**
 - **The sum of:**
 - 2.5 x the average total monthly payments by the applicant for payroll costs incurred during the one-year period prior to the date on which the loan is made, plus
 - Any outstanding amount of a loan made by the SBA during the period beginning on January 31, 2020
 - **Or \$10,000,000**
- **Loans amounts must be used for allowable purposes, including:**
 - Payroll costs
 - Rent / Payments of interest on any mortgage obligation
 - Utilities
 - Interest on any other debt obligations incurred before the covered period (February 15, 2020)

PAYROLL COSTS INCLUDE:

Salary, wages, commissions, and similar compensation (not exceeding \$100,000 annualized per employee); cash tip or their equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provision of group health care benefits, including insurance premiums; payment of any retirement benefit; or payment of state or local tax assessed on the compensation of employees. (Excludes certain federal payroll taxes)

ALSO INCLUDED IN PAYROLL:

Costs for an independent contractor or sole proprietor; wage, commissions, income, or net earnings from self-employment or similar compensation.

A row of wine glasses on a tray, with a teal overlay containing text.

Section 1106 – Loan Forgiveness

The Basics

- **An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the “covered period”:**
 - Payroll costs (as defined in the previous section)

The below costs qualify but may not exceed more than 25 percent of the loan forgiveness amount:

 - Interest payment on any mortgage incurred prior to February 15, 2020 (not including prepayment of or payment on principal)
 - Payment of rent on any lease in force prior to February 15, 2020
 - Payment on any utility for which service began before February 15, 2020
 - Additional wages are considered for employers with tipped employees
- **The covered period means the 8-week period beginning on the date of the origination of the covered loan.**

The Basics (Continued)

- **The Base Loan Forgiveness Amount may be subject to potential reductions for reduction in employees and reductions in salaries:**
 - Proportionally by the number of full-time equivalents per month during the “covered period” divided by the average number of full-time equivalents per month employed between February 15, 2019 and June 30, 2019 or January 1, 2020 and February 29, 2020 (at the employer’s option). Exemption applies for re-hires prior to June 30, 2020.
- and
- By the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25% of the total salary or wages of the employee during the most recent full quarter.
- **If the loan is not used during the covered period and not forgiven:**
 - The remaining balance can be paid over a maximum period of 10 years at a maximum rate of 4% (actual terms are currently 1% maturing in 2 years)
 - The SBA will defer the loan payments for six months

The Finer Points

- **To claim loan forgiveness, the borrower must submit to the lender an application that includes:**
 - **documentation verifying the number of full-time equivalent employees on payroll and pay rates for the applicable periods including**
 - payroll tax filings reported to the Internal Revenue Service and
 - State income, payroll, and unemployment insurance filings;
 - **documentation verifying payments on covered mortgage obligations, lease obligations and utility payments**
 - **certifications that:**
 - the documentation presented is true and correct
 - the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments, and
 - **any other documentation the Administrator determines necessary.**
- **The loan forgiveness is not considered taxable income to the borrower.**

A row of wine glasses on a tray, with a teal overlay containing the text 'Economic Injury Disaster Loan'.

Economic Injury Disaster Loan

The Basics

- **Economic Injury Disaster Loans and Economic Injury Grants**
- **True loan that has to be paid back for working capital (not limited to specific items)**
- **Limitations based on NAICS codes.**
 - **For small business concerns:**
 - Full-Service restaurants, Caterers - \$8 million in revenue; limited service - \$12 million; Food Service Contractors - \$41.5 million
- **Interest is 3.75%**
- **Requires personal guarantees**
- **Disaster Assistance Loans have always been available through the SBA**

The Finer Points

- The loan amount is capped at 2 mil
- Cannot be used to cover the same expenses as the PPP covers.
- This is run directly by the SBA
- When applying for the loan, you can request an advance of \$10,000 which is:
 - To be paid to you within 3 days of applying
 - Not to be paid back (this is a grant, not a loan)

A row of wine glasses on a tray, with a teal overlay containing the text 'Unemployment Insurance Expansion'.

Unemployment Insurance Expansion

The Basics

- **Extends unemployment insurance by 13 weeks.**
 - All but eight states (Arkansas, Alabama, Florida, Idaho, Kansas, Missouri, North Carolina, and South Carolina) offer 26 weeks of unemployment insurance benefits
- **Provides an additional \$600 per week payment to each recipient of unemployment insurance for up to four months (expires on July 31, 2020).**
- **The total amount of benefits will be equal to the amount determined under state law, plus an additional amount of \$600 per worker per week.**
- **Individuals are not eligible if:**
 - They are able to work remotely
 - They are receiving paid sick or paid family leave benefits under the FFCRA
 - Their salary has been reduced but regular work schedule remains the same

The Basics (Continued)

- **The Act provides payment to those not traditionally eligible for unemployment benefits, such as individuals who are independent contractors, self-employed, or have a limited work history but are unable to work as a direct result of COVID-19.**
- **An individual may provide self-certification that he or she is able and available to work, but is unemployed or partially unemployed due to any of the following:**
 - **Has been diagnosed with COVID-19 or is experiencing symptoms and seeking a medical diagnosis**
 - **A member of the individual's household has been diagnosed with COVID19**
 - **The individual is providing care for a family member or household member who has been diagnosed with COVID-19**

The Basics (Continued)

- **An individual may provide self-certification that he or she is able and available to work, but is unemployed or partially unemployed due to any of the following:**
 - **The individual is the primary caregiver for a child or other person in the household who is unable to attend school or another facility as a direct result of COVID-19**
 - **The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of COVID-19**
 - **The individual is unable to work because a health care provider has advised the individual to self-quarantine due to COVID-19 concerns**
 - **The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of COVID-19**
 - **The individual has become the breadwinner or major support for a household because the head of household has died as a direct result of COVID-19**
 - **The individual has to quit their job as a direct result of COVID-19**
 - **The individual's place of employment is closed as a direct result of COVID-19**

The Finer Points

- To receive expanded benefits, the individual must be employed in a state that chooses to enter into an agreement with the U.S. Secretary of Labor to provide expanded benefits under these Sections. New York has already entered into such an agreement.
- States maintain the authority to determine eligibility, however all states are required to expand eligibility to those affected by COVID-19 as outlined on the previous slide.
- The Act provides funding to pay the cost of the first week of unemployment benefits for states that choose to waive the 7-day waiting period (expires on December 31, 2020). New York has done this.

A row of wine glasses on a tray, with a teal overlay containing the text 'Tax Credits and Deferrals'.

Tax Credits and Deferrals

The Basics

- **Employer tax credit equal to 50% of “qualified wages” paid to employees from March 13, 2020 through December 31, 2020.**
- **The tax credit applies against the employer portion of Social Security taxes payable on W-2 wages paid to all employees (after first applying the tax credits for payment of required sick leave and required FMLA leave).**
- **The tax credit is available to employers who meet either of the following conditions:**
 - **The employer’s operations are either fully or partially suspended by a government order relating to COVID-19; or**
 - **The employer’s gross receipts during a calendar quarter are less than 50% of the gross receipts for the same calendar quarter during 2019.**

The Finer Points

- The available tax credit is based on the qualified wages paid by the eligible employer during the calendar quarter.
- **For employers with more than an average of 100 full-time employees during 2019:**
 - Qualified wages includes only wages that continue to be paid to employees who are not providing services due to a COVID-19 suspension of business operations or the greater than 50 percent reduction in gross receipts. Qualified wages taken into account may not exceed what the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the period of hardship
- **For employers with less than an average of 100 full-time employees during 2019:**
 - Qualified wages include all wages paid to employees regardless of whether or not the employee is providing services

The Finer Points (Continued)

- In all cases, the total amount of qualified wages that can be counted for an individual employee during the entire COVID-19 period cannot exceed \$10,000.
- “Wages” refers to W-2 wages used to determine FICA (Social Security and Medicare) taxes, but does not include FFCRA required sick and FMLA leave payments.

Note: An employer cannot take advantage of the tax credit if it receives the PPP loan referenced earlier in this presentation.

Tax Deferrals

- All employers, regardless of whether or not their business is affected by COVID-19, may delay payment of their 2020 employer-side Social Security taxes.
- 50% of the deferred 2020 employer-side Social Security tax is payable by December 31, 2020.
- The remaining 50% of the deferred tax is payable by December 31, 2022.

Note: An employer cannot delay payment of these taxes if it receives the SBA loan referenced earlier in this presentation.

IMPORTANT

Legislation around the CARES Act and PPP is subject to change and rules are still being updated. There are several items still unclear so please make sure to speak with your lender or an advisory professional before completing your application. You can also check the SBA site for updates.

TO CHECK FOR UPDATES:

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>



Questions?

THANK YOU!

FOR MORE INFORMATION

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