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## *PH COVID-19 Client Alert Series: The CARES Act Stimulus Package III – What Employers Need to Know*

By [Elena Baca](#), [Marc Bernstein](#), [Elizabeth Minoofar](#) & [Sarah Spiegelman](#)

Congress has passed a \$2 trillion COVID-19 relief package that includes several measures expanding unemployment benefits and providing various forms of tax and other relief for employers and states. The package is anticipated to be signed into law by President Trump on March 27, 2020. Below is a summary of a few key provisions all employers should know about.

### **Unemployment Benefit Increases**

#### ***Emergency Increase in Unemployment Compensation Benefits***

Sections 2104 and 2107 of the bill provide an additional \$600 per week (over and above any state unemployment benefits), lasting up to four months, and covering weeks of unemployment from the date of the bill's enactment until July 31, 2020. The bill also provides an additional 13 weeks of unemployment benefits after state unemployment benefits are no longer available. There is no cap on the amount of money that can be paid out, but the payments have a maximum duration of 39 weeks. These unemployment benefit increases are available to employees of employers of any size.

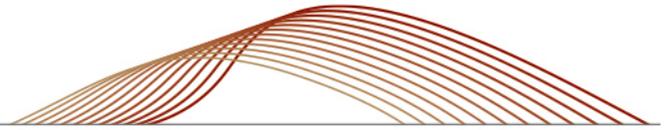
#### ***Short-Time Compensation Funding to States***

Sections 2108-2111 of the bill provide funding to support **100% of the costs incurred by states in providing existing "short-time compensation" programs through December 31, 2020.**

Employees who qualify for state short-time compensation programs (programs where employers reduce employee hours instead of laying off workers) will receive a pro-rated unemployment benefit.

For states that do not have short-time compensation programs, \$100 million in grants will be given to states that enact such programs. The bill will fund 50% of the costs that such a state incurs in providing short-time compensation through December 31, 2020.

Finally, the bill requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to short-time compensation programs.



## ***Pandemic Unemployment Assistance for Self-Employed Workers, Independent Contractors, and Other Workers Who Traditionally Do Not Receive Unemployment Benefits***

Section 2102 creates a temporary Pandemic Unemployment Assistance program, payable for up to 39 weeks of unemployment during the time period from January 27, 2020 through December 31, 2020, that provides **“pandemic unemployment assistance” payments to workers who were not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, those who have exhausted regular unemployment or extended pandemic benefits under Section 2107, and others not eligible for regular state or federal unemployment benefits)** who are unable to work as a direct result of the coronavirus public health emergency. This benefit is limited to 39 weeks, and is available to eligible employees of employers of any size.

## ***Emergency Unemployment Relief for Nonprofit Organizations, Government Agencies, and Indian Tribes***

Section 2103 of the bill provides money for states to **reimburse nonprofits, government agencies, and Indian tribes for 50% of the costs they incur through December 31, 2020 to pay unemployment benefits.**

## ***House Ways and Means Committee Guidance***

The House of Representatives Committee on Ways and Means has published an FAQ providing more guidance about the CARES Act unemployment benefits available to individuals and employers. The guidance is available [here](#).

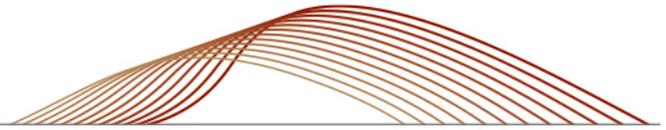
## **Recovery Rebates for Individuals**

Eligible individuals, regardless of employment status, will receive payments from the IRS of \$1,200 each (\$2,400 for joint filers), plus \$500 for each qualifying child of the taxpayer. These rebates are advances on credits to be claimed on the taxpayers’ 2020 tax returns that will be filed in 2021 and are limited based upon the taxpayer’s adjusted gross income (AGI), phasing out completely when AGI exceeds \$99,000 for single taxpayers and \$198,000 for married taxpayers.

The rebate amount will be calculated using the taxpayer’s 2019 tax return information if it has been filed or 2018 information if 2019 has not been filed yet. Payment will be sent to eligible individuals by Dec. 31, 2020.

## **Special Rules for Use of Retirement Funds**

The 10-percent penalty for early distribution of retirement funds will be waived for qualifying pandemic-related distributions of up to \$100,000 made during 2020. Distributions qualify as pandemic-related if the employee, the employee’s spouse or a dependent has tested positive for SARS-CoV-2 or COVID-19 or the employee experiences adverse financial consequences from being quarantined, furloughed, laid off or having work hours reduced due to the virus or a shut-down order, or other reasons to be defined by the Secretary of the Treasury. Employers can allow workers to self-certify that they meet these qualifications. The distributions may also be repaid at any time over a 3-year period without incurring income tax. Any amount of the distribution that is required to be



included in the taxpayer's income may be recognized ratably over a 3-year period. Required Minimum Distributions will be waived for calendar year 2020.

## Tax Relief Provisions

### ***Tax-Free Employer Payments of Student Loans***

Section 2206 allows employers of any size to provide student loan repayment benefits to employees on a tax-free basis. Employers can contribute payments toward an employee's student loans and such payments will be excluded from the employee's income. This tax benefit applies both to the new student loan repayments and to any other educational assistance (e.g., tuition, fees, books, etc.) provided by the employer under current law.

### ***Employee Retention Credit for Employers Subject to Closure Due to COVID-19***

Section 2301 of the bill provides a **refundable payroll tax credit** to employers whose:

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.

Employers will receive a credit for 50 percent of "qualified wages," up to the first \$10,000 of compensation (including health benefits) paid or incurred from March 13, 2020 to December 31, 2020.

- For employers with over 100 full-time employees, "qualified wages" are wages paid to employees who are not providing services (*i.e.*, not working) due to a shut-down order.
- For employers with 100 or fewer full-time employees, all paid wages constitute "qualified wages," regardless of whether the employer is open or subject to a shut-down order.

### ***Deferred Payment of Employer Payroll Taxes***

Under Section 2302, employers of any size will be able to defer payment of the employer share of Social Security taxes that they otherwise are responsible for paying to the federal government. The deferred Social Security tax can be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

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*If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:*

#### **Los Angeles**

Elena R. Baca  
1.213.683.6306  
[elenabaca@paulhastings.com](mailto:elenabaca@paulhastings.com)

Sarah B. Spiegelman  
1.213.683.6198  
[sarahspiegelman@paulhastings.com](mailto:sarahspiegelman@paulhastings.com)

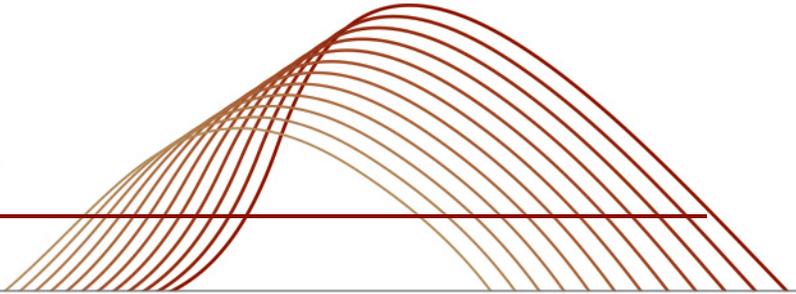
#### **New York**

Marc E. Bernstein  
1.212.318.6907  
[marcbernstein@paulhastings.com](mailto:marcbernstein@paulhastings.com)

Elizabeth S. Minoofar  
1.213.683.6249  
[elizabethminoofar@paulhastings.com](mailto:elizabethminoofar@paulhastings.com)

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