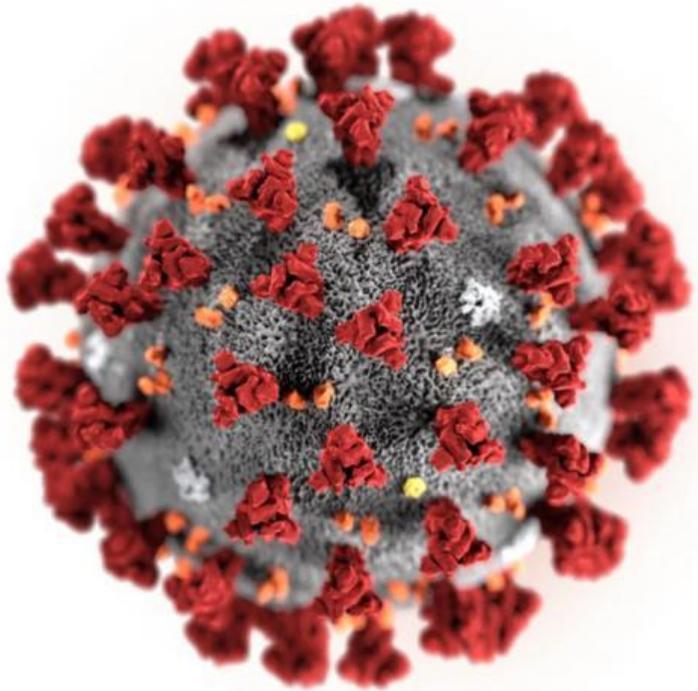


Washington's COVID-19 Responses: How Do They Impact My Club?



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Private Club Consultants

- PCC was created to provide in-depth legal and operational answers for the club industry
- Our mission is simple:
 - To help you implement new legislative and regulatory requirements – with minimal impact to your club’s bottom line, and
 - To help you minimize legal liability and keep your club’s private and tax-exempt status intact – without sacrificing your strategic goals
- We are “Your Trusted Source for Answers”



Washington's COVID-19 Responses



President's Executive Orders

■ Payroll tax “cut”

- Employees' 6.2% Social Security payroll tax is **deferred** from 9/1–12/31
- Only available for those employees making <\$104K/year
- No word on when it is to be repaid or how
 - Employees must understand this is a deferment though Pres. wants it as a permanent cut
- No penalties/interest for clubs that don't withhold these taxes, but
 - Club is on the hook to pay them as they are required to withhold such taxes – so do they repay or is it the employee's responsibility??

■ Renewed federal unemployment assistance

- \$44B set aside for the \$400/week benefit (\$300 from feds and \$100 from state)
 - States don't have to agree to this split, but the benefit is then \$300/week
- Runs from 7/27 – 12/6 or when \$44B is gone, whichever occurs first



Next Legislative Response

■ HEALS Act

- Increased ERTC “qualified wages”/employee to \$30K (capped at \$10K/quarter)
- Increased credit to 65% of those wages – giving clubs a \$19,500/employee credit
- Clubs w/ 500 or less FT employees can count wages of working **and** furloughed staff
- PPP clubs (still only for-profit clubs) may also use the ERTC – there is a “no double dipping” clause
- Created a refundable tax credit for qualified COVID-19 costs (e.g. PPE, testing and cleaning supplies)
 - The maximum amount of qualified expenses is \$1,000/employee (for the first 500 employees)
 - The credit is 50% of that expense, and it is retroactive to March 12 thru December 31.
 - Take credit from all available payroll taxes due
- Provided immunity from lawsuits filed by staff, members and guests
 - Club must still comply with federal, state and local COVID-19 operating guidelines
- Provided another round of stimulus payments for most Americans
- Renewed federal unemployment benefits, but at \$200-\$500/week vs. \$600/week



Paid Sick Leave

- 80 hours for FTers (avg. hrs. of work over two-weeks for PTers)
 - Valid 4/1/20 thru 12/31/20
 - Any employee (regardless of time at club) is entitled to paid sick leave if he can't work (or telework) because:
 - He is subject to a federal, state, or local COVID-19 quarantine/isolation order,
 - He is being advised by a healthcare provider to self-quarantine,
 - He is experiencing symptoms and seeking a diagnosis,
 - He is caring for someone subject/advised to quarantine,
 - He is caring for a son/daughter whose school or place of care is closed b/c of COVID-19, or
 - He is experiencing "substantially similar" health conditions as established by the Sec. of HHS
 - If he requests it for the first 3 reasons, he gets full pay for the hours he normally works – but no more than \$511/day or \$5,110 total
 - If he requests if for the second 3 reasons, he gets 2/3rds his pay for the hours he normally works – but no more than \$200/day or \$2,000 total
 - May NOT require him to take earned PTO before requesting this paid sick leave
 - Club must post a new “Informational Poster” by DOL explaining this new mandate



Paid Family and Medical Leave

- Twelve weeks of paid family and medical leave – valid 4/1/20 to 12/31/20
 - Any employee (must be on payroll for 30 days) is entitled to 12 weeks of paid FML if he can't work (or telework) due to:
 - Caring for a minor child whose school/place of care is closed due to COVID-19 – this is the only way to get paid FML
 - The first 10 days (2 weeks) does not need to be paid by the club
 - He may use PTO or the new Paid Sick Leave – can't force one over the other
 - The remaining 10 weeks, he gets 2/3rds his pay for the hours he normally works – but no more than \$200/day or \$10,000 total
 - Club must post a new “Informational Poster” by DOL explaining this new mandate
 - Clubs may rehire someone and, as long as he was on staff for 30 of the previous 60 days, he gets the benefit



Paying For The New Benefits

- Clubs will receive a tax credit covering 100% of these new benefit payments
 - Clubs are entitled to retain from their payroll tax deposits the total amount of these payments
 - IRS guidance indicates that “payroll taxes” includes withheld federal income taxes as well as employer and employee FICA contributions
 - If there isn't enough in the payroll taxes to cover the payments, the club is entitled to file for an accelerated payment from the IRS to cover the remaining amount – Form 7200
 - No penalty for failing to deposit these payroll taxes
 - Interestingly, the actual law only indicates that FICA (and only the 6.2% for S.S. portion) can be used to reimburse employers for the payments....
 - Reconcile these retained credits and what should be deposited with government on Form 941
 - Clubs are also entitled to an immediate credit for the employer portion of health care premiums paid for employees taking the new leave



Paycheck Protection Program (PPP)

■ Eligibility

- 501(c)(7)s are NOT eligible for these loans - only 501(c)(3)s and (19)s
- Regulations issued by SBA (13 CFR 120.110(i)) indicate that taxable clubs could have difficulty being eligible based on restricting membership for reasons other than “capacity”
 - D.C., Mich. & Wis. federal court cases pending on applicability of 13 CFR 120.110 to PPP
 - Injunction stopping SBA using regs. upheld in 6th & 7th Cir. Ct. of Appeals
 - D.C. Cir. Ct. upheld a decision that denied an injunction stopping SBA from using regs.
- A joint HOA/Club might be eligible, but still has to deal with this regulation



Employee Retention Tax Credit

- Clubs will receive a refundable tax credit for keeping employees on payroll
 - Clubs are eligible if:
 - They are subject to a full/partial shutdown order from the government due to COVID-19, OR
 - They have suffered an economic slowdown where gross receipts in a Q are less than 50% of the gross receipts for the same Q in 2019
 - Tax credit based on “Qualified Wages” – defined as:
 - For clubs with an avg. of >100 FTers in ‘19, qualified wages are those paid to a worker who was retained but did not work
 - For clubs w/ 100 or less FTers in ‘19, qualified wages are those paid to a worker, whether working or not
 - Qualified wages are those paid from 3/13/20 to 12/31/20 BUT
 - Capped at \$10K/employee
 - Total credit club may earn is 50% of qualified wages – so up to \$5K/employee
 - Qualified wages include HI expenses (even if he is laid-off) – follow the IRS formula
 - Club may not receive the credit for wages paid to those on Paid Sick Leave or Paid FML



Employee Retention Tax Credit

- Tax credit is applicable per pay period and reconciled quarterly
 - It applies to the S.S. payroll tax due for all employees
 - But, if your credit is more than your S.S. tax liability, the excess is REFUNDABLE to you
 - You may retain that excess credit from all available payroll taxes due
 - If the excess credit is more than the available taxes due, you may request an advance on Form 7200
 - You will reconcile the retained credit and what you should have paid the government on Form 941
- A club that receives a PPP loan cannot claim the Employee Retention Tax Credit
 - Does not matter when you received the PPP loan
 - Does not matter whether the PPP loan is forgiven or paid



Other Benefits

- Economic Injury Disaster Loans
 - 501(c)(7)s are eligible for these loans – max. is \$2M
 - May receive an immediate \$10,000 emergency grant for payroll – does not need to be repaid
 - Loans are available 1/31/20 thru 12/31/20
- Clubs are entitled to defer payment of payroll tax for wages paid thru 2020
 - Applies only to the 6.2% paid for the Social Security tax (not the 1.45% for Medicare tax)
 - Payment will be due as follows:
 - 50% of these deferred taxes by 12/31/21
 - Remainder by 12/31/22



Questions



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Your Trusted Source for Answers

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