Labor and Employment Alert: The Paycheck Protection Program in the Keeping American Workers Paid and Employed Act

This is what all employers (with up to 500 employees) have been waiting for and once the President signs it, the Coronavirus Aid, Relief, and Economic Security Act ("CARES"), offers a silver lining for employers. A portion of CARES, known as the Paycheck Protection Program, creates a new category of non-recourse, no-personal guarantee, and forgivable SBA guaranteed loan. We will be scheduling a webinar for Monday, March 30, 2020 to cover this momentous program. But in the meantime, here is what you need to know:

- Any business (for-profit or non-profit) that employs up to 500 employees (full-time and part-time counted) would be eligible for a ***non-recourse, forgivable loan*** (in whole or in part), known as "paycheck protection loans," from any FDIC- insured bank, which loan would be guaranteed to the bank by the SBA. Sole proprietors, independent contractors, and eligible self-employed individuals are eligible for these loans.
- The maximum loan amount is the lesser of $10,000,000 or:
    - 2.5 times the average total monthly payments by the applicant for certain payroll costs set forth in the statute (excluding compensation exceeding $100,000) and incurred during the one-year period before the date on which the loan is made, plus the amount of any outstanding SBA loan previously made under Section (b)(2) during the period beginning Jan. 30, 2020.
    - There are special rules for seasonal employers and businesses that were not in business from February 15, 2019 through June 30, 2019.
- Allowable uses of the covered loan are for payments made, during the period beginning Feb. 15, 2020 and ending June 30, 2020:
    - Payroll costs as defined in the statute;
    - Payments of interest on any mortgage obligation (excluding prepayment of principal) for mortgages obtained prior to Feb. 15, 2020;
    - Rent for lease obligations incurred prior to Feb. 15, 2020;
    - Utilities (including internet service) for service that began prior to Feb. 15, 2020; and
    - Interest on any other debt obligations that were incurred period Feb. 15, 2020.
- A borrower shall be eligible for forgiveness of the loan where the proceeds are used for the covered expenses set forth above during the eight-week period beginning on the date of origination of the covered loan.
- The loan forgiveness amount is subject to reduction where there has been a reduction in the number of employees and/or reduction in salary/pay amounts that exceed a certain percentage. The borrower can avoid these reductions by undoing the employee and salary/pay reductions after the loan is obtained.

There are many more aspects to this program that will be covered during our webinar on Monday, March 30, 2020. Stay tuned for scheduling details.