

COVID-19 HR Related Q&A from Harold Ford, Employer Solutions Consulting Manager

Over the past few weeks, we have received many questions regarding COVID-19 and its impact on the workforce. See below for answers to some of the commonly asked questions to our team:

Q: What are employee rights of refusal to return to work because of fears of contracting COVID-19?

A: As an employer, there are many regulations to review and it is important to seek legal counseling. Under the Occupational Safety and Health (OSH) Act, an employee can refuse work if they believe they are in imminent danger. However, that belief must be reasonable and based on fact, not just a general fear of contracting COVID-19. Under the NLRA, employees can assert protected concerted activity rights and refuse to work in unsafe conditions. Under the ADA, employees with underlying medical conditions that put them at higher risk of COVID-19 can request remote work or alternative worksite arrangements, such as changes to the site to reduce direct contact with other employees.

Q: The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an eight-week period; when does that eight-week period begin?

A: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.

Q: Under CARES, How can an Eligible Employer that is paying qualified wages fund the payment of these wages they do not have enough federal employment taxes set aside for deposit to cover those payments? Can the employer get an advance of the credits?

A: Yes. Because quarterly returns are not filed until after qualified wages are paid, some Eligible Employers may not have enough federal employment taxes set aside for deposit to the IRS to fund their qualified wages. Accordingly, the IRS has established a procedure for obtaining an advance of the refundable credits.