What is the CARES Act…

…and does my company qualify for Stimulus Assistance?

American Coalition for Ethanol:
- Brian Jennings, CEO
- Jonathon Lehman, Lobbyist

Christianson PLLP:
- John Christianson, CPA, Managing Partner
- Jamey Cline, Business Development Director
- Kristie Haefner, HR Consultant
- Teresa Carlson, Manager

CoBank:
- Tom Houser, Lead Relationship Manager

April 8, 2020 Webinar
But first…10th Circuit Rejects Refiners’ Appeal!

• Late on Tuesday the Tenth Circuit Court denied requests by CVR and HollyFrontier for a rehearing of the case we won in January to limit SREs

• EPA was waiting for the appeal to be resolved before deciding how to handle the 25 SRE waivers pending for the 2019 RFS compliance year

• While refiners can appeal to the Supreme Court, it is highly unlikely the Court agrees to hear the case

• EPA has run out of excuses! ACE will continue to press EPA to apply the Tenth Circuit precedent on all pending/future SRE decisions
Congress’s Three-Phase Response to COVID-19

**Phase 1**
Initial support and vaccine development

- H.R. 6074 — Coronavirus Preparedness/Response Act
  - $8.3 billion to develop a vaccine and prevent spread of the virus
  - Became law on 3/6/20

**Phase 2**
Paid leave, unemployment and food assistance

- H.R. 6201 — Families First Coronavirus Response Act
  - $100 billion in worker aid, including emergency paid sick leave, food assistance, and unemployment
  - Became law on 3/18/20

**Phase 3**
Major economic stimulus package

- H.R. 748 – Coronavirus Aid, Relief, and Economic Security (CARES) Act
  - $2 trillion aid and loans
  - CCC funds for USDA
  - Payments to individuals & families
  - Became law on 3/27/20
USDA Spending in the CARES Act

• $14 billion for Commodity Credit Corporation (CCC) to authorize direct payments to agricultural producers impacted by COVID-19
  o CCC balance was about $8 billion prior to CARES Act funding

• $9.5 billion set-aside for livestock and specialty crops

• USDA working on how to most quickly implement payments

• ACE urging USDA to make CCC payments to biofuel producers
  o Also urging EPA to increase 2020 RVO due to COVID-19
Any oil or energy sector-specific aid?

- Congress declined the $3 billion requested by DoE to purchase oil for the Strategic Petroleum Reserve (SPR) in the CARES Act
  - DoE seeking alternative ways to add oil to the SPR

- House Democrats have so far drawn a line on any assistance to fossil fuels. While our champions had messaged that any aid for oil needed to come with aid for renewable fuels, the result was both were dropped

- Recent White House meetings with oil producers. Focus on international diplomacy to curtail production as way to better prices
Maximizing Your Value from the CARES Act
Welcome!

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*CARES Act Provisions updated as of April 2nd, 2020
Our dedicated team of experts delivers top-notch solutions to financial, strategic, and operational issues for companies large and small.

Creating clients for life... it's not just our motto, it's how we do business.
Agenda

- Stimulus Programs
- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loan (EIDL)
- Families First Coronavirus Response Act (FFCRA)
- Unemployment Expansion
- Employer Retention Credit
- Tax Provisions
Paycheck Protection Program (PPP) & Emergency Economic Injury Disaster Loans (EIDL) / Grants

Jamey Cline
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Paycheck Protection Program

> New SBA (7)(a) loan – originated 02-15-20 to 06-30-20
> 100% guaranteed by SBA – no collateral or guarantee required
> Payment deferment for 6 months to 12 months

> Eligible businesses
  > Less than 500 employees – some exceptions apply
  > Non-profit 501(c)(3); sole proprietors allowed

> Affiliate companies will be consolidated – can be waived
Paycheck Protection Program

- Maximum Loan
  - Equals
    - Lessor of 2.5 X average monthly payroll incurred during prior year
  - OR $10 million

Approved!
Paycheck Protection Program

Payroll Costs Include:

- Salary, wages, commission, & tips
- Vacation, medical or sick leave
- Separation allowance
- Group health care benefits & health insurance
- Retirement benefits
- State or local tax assess on employee compensation
Paycheck Protection Program

Payroll costs do not include:

- Compensation in excess of $100,000
- Employees living outside of United States
- Sick leave wages which credit allowed under FFCRA
- Family leave wages which credit allowed under FFCRA
Paycheck Protection Program – Eligible Use

> Payroll costs
> Group health care benefits & insurance premiums
> Interest on mortgage obligations (no prepayment allowed)
> Rent or lease payments
> Utilities including electricity, gas, water, phone, internet
> Interest on other debt incurred prior to covered period
Paycheck Protection Program

> PPP Loan forgiveness – accordance with Sec 1106
  > Costs incurred and payments made during 8 weeks after origination
    > Payroll costs
    > Interest payments on mortgage obligations
    > Rent or lease payments
    > Utility payments
  > PPP debt forgiveness excluded from gross income
Paycheck Protection Program

>Certification
  >Uncertainty of current economic conditions require the loan request to support ongoing operations
  >Funds will be used to retain workers, make payments for payroll, mortgage, leases, and utilities
  >Recipient has no application pending under this subsection
  >Recipient has not received amounts under this subsection during 2020
Paycheck Protection Program

> Loan Terms
  > Max term - 2 years
  > Max interest rate – 1.0%
  > No personal guarantees
  > No collateral
  > No requirement of credit not available
  > Waiver of loan fees
Updated Guidance - PPP

> April 3: Small Businesses and Sole Proprietorships
> April 10: Independent Contractors and Self-Employed Individuals
  > SBA loans cannot be consolidated
What is the EIDL

>Economic Injury Disaster Loans (EIDL) - SBA – 7(b)(2)
  >January 31, 2020, until December 31, 2020
  >Up to $2 million
  >Loans less than $25,000 no collateral required
  >Personal guarantees required
    >loans over $200,000
    >owners over 20%
  >Interest rates of 3.75%, non-profits at 2.75%
  >Up to 30 year term
Additions to EIDL From CARES

- Emergency Grant - $10,000
  - SBA Goal – within 3 days
  - No requirement to repay even if not approved, or do not accept loan
- All 50 States, Washington D.C., and territories
- EIDL loan proceeds should not be used for payroll purposes
Who Qualifies for EIDL

- Businesses < 500 employees
  - Includes sole proprietors and ESOPs
  - May borrow up to $2 million for physical damage

- Start-up businesses
  - More difficult - if declined, you can apply for reconsideration

- Homeowner or renter, borrow up to $40,000
Who Doesn’t Qualify for EIDL

- Agricultural enterprises
  - If you grow it, feed it or water it the business is not eligible
  - Potential for this to change
- Businesses considered hobbies
- Gambling Concerns – over 1/3 of gross revenue gambling
- Speculative real estate businesses
Other Key EIDL Information

> Allowed to refinance EIDL Loan into PPP Loan
  > If EIDL was received on or before April 3rd
> Existing SBA Disaster Loan holders still qualify for EIDL
  > SBA loans cannot be consolidated
> Affiliates businesses limited to one EIDL
  > Affiliates include:
    > Business parents & subsidiaries
    > Common ownership or management
Evaluating Your Alternatives

**EIDL**
- $2M – Apply for Max Loan
- $10,000 – Grant Included
- $1.99M Loan

**PPP**
- $875,000 - Loan Application
- $700,000 2 mo Payroll-Forgiven
- $175,000 Utilities-Forgiven
- ____?____ 2 mo Mortgage Int/Rent
- $875,000 Forgiven (Grant)
Families First Coronavirus Response Act (FFCRA)
President Trump signed FFCRA into law on March 18, 2020
  > Effective April 1, 2020 – December 31, 2020
  > The law applies to employers with fewer than 500 employees (including non-profit & government agencies)
    > Hardship exemptions for employers with fewer than 50 employees
  > Employee Rights notification posters can be downloaded for free on the DOL website at:
FFCRA Breakdown

- Expanded Family Medical Leave (FMLA)
- Paid Emergency Sick Leave
- Employer Refundable Tax Credits
Expanded FMLA

The FFCRA amended and expanded FMLA to assist those impacted by coronavirus. The expanded FMLA allows employees to take protected leave when they are unable to work (or telework) due to a need for leave to care for their child under the age of 18 because their school or place of care has been closed, or because their child care provider is unavailable as a result of the coronavirus.
Employee entitled to up to 12 weeks of protected leave
  > Paid at 2/3 normal pay
  > Maximum of $200 per day or $10,000 in aggregate
  > First 10 days may be unpaid or can interplay with paid emergency sick
    leave or employee many substitute paid vacation/PTO

Employee must have been employed for at least 30 calendar days
prior to qualifying for expanded FMLA leave
Paid Emergency Sick Leave

For the first time, Congress is requiring employers to provide employees with paid sick leave under certain circumstances. The Act provides that employees must receive emergency paid sick leave if the employee is unable to work due to any of the following situations:
Paid Emergency Sick Leave

Qualifying Events:

> Employee is subject to federal, state, or local quarantine order related to COVID-19
> Employee has been advised by a health care provider to self-quarantine
> Employee is experiencing symptoms of COVID-19 and is seeking medical diagnosis
> Employee is caring for an individual who is subject to quarantine (#1) or has been advised by a health care provider to self-quarantine (#2)
> Employee is caring for a child due to closure of school or place of care or childcare is unavailable due to COVID-19
> Employee is experiencing any other substantially similar condition specified by the U.S Department of Health and Human Services
Paid Emergency Sick Leave

>Up to two weeks (80 hours) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage paid at:

  > Full wages for qualifying reasons #1-3 or up to $511 daily and $5,110 in aggregate (over a 2-week period)
  > 2/3 regular wages for qualifying reasons #4 or #6, up to $200 daily, and $2,000 in aggregate (over a 2-week period)
  > Up to 10 weeks expanded FMLA paid at 2/3 rate for qualifying reason #5 for up to $200 daily and $10,000 in aggregate (over a 10-week period) or $12,000 in aggregate (over a 12-week period)
Paid Emergency Sick Leave

- FT employees entitled to 80 hours of Paid Emergency Sick Leave
- PT employees shall be paid for the number of hours equal to the number of hours they work in a 2 week period
- Paid Emergency Sick Leave is available for immediate use for **ALL** employees regardless of length of service
- Employers may **NOT** require an employee to use other paid leave provided by the employer prior to using the Paid Emergency Sick Leave
- Employers may **NOT** require an employee to find a replacement to cover hours during which employee is using Paid Emergency Sick Leave
An eligible employer will substantiate eligibility for Paid Emergency Sick Leave or Expanded FMLA credits if the employer receives a written request for such leave from the employee in which the employee provides:

- Employee name;
- Date(s) for which leave is requested;
- A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
- A statement that the employee is unable to work (including telework) for such reason.
Families First Coronavirus Response Act (FFCRA)

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Payroll Related Items

> Paid sick and child care leave wages subject to
  > Federal and state withholding
  > Social Security – Employee
  > Medicare – Employee and Employer
> Can continue employee deductions
> Recommend creating new pay codes to track wages paid related to FFCRA
> Qualifying wages based on when leave was taken, not paid
Employer Refundable Credits

> Paid Sick Leave Credit
  > 100% of wages paid for qualifying reasons #1-3 or up to $511 daily and $5,110 total per employee
  > 2/3 of wages paid for qualifying reasons #4-6, up to $200 daily, and $2,000 total per employee

> Child Care Leave Credit
  > Up to additional 10 weeks of wages paid at 2/3 rate for qualifying reason #5 for up to $200 daily and $10,000 total per employee
Employer Refundable Credits

> Health insurance coverage costs can be included in both the paid sick leave and child care leave employer credits
  > Includes costs paid by the employer and costs paid by the employee with pre-tax deductions
    > Costs of each health plan offered by the employer is determined separately
  > Includes HRA and health FSA contributions made by the employer on behalf of the particular employee
  > Does NOT include HSA contributions

> Employer portion of Medicare tax included in the amount of the credit
Employer Refundable Credits

> Qualifying sick and child care leave wages paid will offset against payroll tax payments

> If qualifying sick and child care leave wages is greater than payroll tax payments, able to file a request for an accelerated payment
  > Filed on Form 7200 – Advance Payment of Employer Credits Due to Covid-19
    > Can be filed multiple times for each quarter
    > Filed by faxing form to (855) 248-0552
      > Reconciled on the employer’s employment tax return (Forms 941, 943 and 944)

> Full amount of credits received must be included in the employer’s gross income for 2020

> Specific documentation requirements
Self-Employed Individuals

> Eligible for qualified sick leave and child care leave credits

> Income tax credit to offset federal self-employment tax on 1040
  > Credit equivalent to the number of days during the taxable year that the individual cannot perform services multiplied by the average daily self-employment income
    > Net earnings for the taxable year divided by 260
  > Amount based on the Covid-19 reason

> Can reduce payments of estimated income taxes
Unemployment Expansion

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Unemployment Expansion

Who’s Eligible?

> Those diagnosed with COVID-19;
> Those with symptoms of COVID-19 and seeking diagnosis;
> A member of the household has been diagnosed with COVID-19;
> Providing care for a family member diagnosed with COVID-19;
> If employment is dependent on child or household member having to be present at a school or facility that has been closed due to COVID-19;
> Quarantine as a direct result of COVID-19
Unemployment Expansion

Who’s Eligible?

> Start of employment delayed as a direct result of COVID-19;
> They’ve become the breadwinner or “major support” because the head of household has died as a direct result of COVID-19
> They had to quit a job as a direct result of COVID-19;
> Their place of employment is closed as a direct result of COVID-19;
> They meet additional criteria established by the Secretary of Labor
Unemployment Expansion

> Legislation extends coverage to those who traditionally are not able to claim unemployment benefits including:
  > Self-employed
    > Independent contractors
  > Individuals seeking part-time employment
  > Individuals who do not have sufficient work histories
  > Individuals who had previously exhausted their unemployment benefits
Unemployment Expansion

> Other Significant Changes
  > $600 per week of benefits for up to 4 months
  > In addition to the benefits they’d typically receive
  > Effective April 5 – July 31, 2020
  > 13 additional weeks of benefits
  > Compensation to cover the one week waiting period before receiving benefits
Key Takeaways

➤ Find resources to stay current
➤ Document, Document, Document
➤ Share information with your employees
➤ This is a marathon, not a sprint!
➤ Be smart, Be safe, Stay healthy
Employer Retention Credit & Tax Provisions

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Employer Retention Credit

➢ Employers business suspended
  ➢ By government orders from Covid-19 or
  ➢ Suffered over 50% decrease in gross receipts

➢ Qualify for refundable payroll tax credit
  ➢ 50% of qualified wages
  ➢ Limited to $10,000 of wages per employee
  ➢ Wages from 03-12-20 to 12-31-20

➢ No credit if received Paycheck Protection Program loan
Evaluating Your Alternatives

- PPP may provide more value than Retention Credit
  - Depends on your situation

- Max tax credit / employee = $5,000
  - 20 employees X max = $100,000

- Vs. PPP loan:
  - 8 weeks of payroll costs, utilities, rent, and mortgage interest is forgiven
Recovery Rebates for Individuals

> Refundable tax credit for 2020
  > $1,200 for single person
  > $2,400 for married couple
  > $500 per dependent child

> Adjusted Gross Income limitations & phase out
  > Single AGI $ 75,000
  > Married AGI $150,000
  > Reduce 5% for AGI in excess

Delay 2020 employers payroll taxes until 2021 and 2022

- 50% deferred until 12-31-21
- Second 50% deferred until 12-31-22
- Businesses with loan debt forgiveness not eligible

> Modification for net operating losses
  > Allow 5 year NOL carryback - years 2018, 2019, 2020
> Modifies loss limitation pass-through businesses
  > Losses from 2018 and forward will not be limited

> Accelerates recover AMT credits
> Increase business interest expense allowed
  > Increases from 30% to 50%
  > Effective for years 2019 and 2020

> Qualified Improvement Property Fix
  > Improvements made to interior portion of commercial building
  > QIP asset life was reduced from 39 years to 15 years
  > Bonus depreciation of 100%
  > Change retroactive to 01-01-2018

> Distilled spirits exempt from excise tax for alcohol used to produce hand sanitizer – produced with denatured ethanol only
Thank you!

Please contact us with questions:
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www.christiansoncpa.com/contact-us
PPP – Great Plan – But Synonym for “FRUSTRATION”

- Prior/Existing SBA-certified 7(a) Lenders – Had “Portal” access to submit applications if were active with current password

- All FCS Institutions also specifically eligible to participate per the CARES Act, BUT

- Require SBA approval, in particular to access “the Portal”; slow (still) to be provided for most new participants (SBA system “crashed” on Monday!)

- Understand only 3 FCS Institutions able to take applications as of Tuesday

- Compeer can/is, others soon !! (we expect / “hope” !?!?)

- Many CoBank/FCS customers have applied through local or commercial banks

- Good news is $349B initial funding, another $251B proposed this week, and/but (only) 275,000 applications/$75B approved so far this morning!
Yet/Still, some PPP details/questions remain – such as can an application be corrected after accepted by SBA; what is the process for lenders to apply for loan forgiveness; and many others!

Lenders are responsible -- to verify borrower in operation on 2/15/2020; to verify noted employees; to verify $$ amount of average monthly payroll; to follow Bank Secrecy Act (KYC) requirements, etc. – we don’t yet know what SBA expects!!

CoBank, Compeer, AgCountry, FCSA do not intend to stand in the way of “free money”!

Will need to be provided information about your SBA loan: the lender, amount, etc.

Will likely need to waive covenant restrictions, especially regarding “other” debt

Process to do so will vary, but each intend to be efficient
Phase 4 Stimulus Legislation?

• Likely: Speaker Pelosi wants more payments to individuals and small businesses, expanded food aid, paid sick leave
  o Pelosi and President Trump also want infrastructure spending

• Many congressional GOP consider Phase 4 premature, but Senate leadership is mulling additional $250 billion for PPP

• ACE will aggressively position renewable fuels in discussions
Further “Phases” to Stimulus Legislation?

• Phase 5 will likely be an effort to jumpstart the economy

• This is most likely where infrastructure and industry sector specific discussions will occur

• We will aggressively position renewable fuels in these discussions
Questions?