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Federal Government Moves to Jumpstart Small Business Lending

As small business owners know, the economic downturn has made accessing loans and credit more difficult than in the past, even for firms with a record of paying their bills on time. To help small businesses struggling to borrow the capital they need to operate or grow, Congress included provisions in the most recent stimulus package that increased funding for the Small Business Administration (SBA), which makes loans to qualifying small businesses through participating commercial and nonprofit lenders. And, in mid-March, President Obama announced that a portion of the funds from the Troubled Asset Relief Program (TARP) will be used to unfreeze the secondary market for SBA loans and increase the liquidity of community banks that lend to small businesses.

ARRA Funds

While the precise details of how the new funding programs will be implemented are still being worked out, SBA officials have said that the American Recovery and Reinvestment Act of 2009 (ARRA), signed into law on February 17, 2009, provides the agency “with specific tools to make it easier and less expensive for small businesses to get loans, give lenders new incentives to make more small business loans, and help unfreeze the secondary markets to boost liquidity in the credit markets.”

ARRA included \$730 million in additional funding for the SBA, and the legislation makes changes to the agency’s lending and investment programs to expand their reach to a greater number of small businesses. According to the SBA, the funding includes \$375 million for temporarily eliminating fees on SBA-backed loans and for raising SBA’s guarantee percentage on 7(a) loans to 90%. The waiving of fees will

remain in effect until the end of 2009 or until the funding is exhausted.

Another \$255 million will be used to fund a new loan program to help small businesses meet existing debt payments, \$30 million will go toward expanding the SBA’s microloan program, and \$25 million will go toward increasing staff levels at the SBA.

TARP Funds

In addition, President Obama announced on March 16 that the U.S. Treasury Department will commit up to \$15 billion of TARP funds to help thaw the frozen credit markets by purchasing small business loan securities currently frozen on the secondary market. In buying up these securities, the government hopes to unlock these secondary markets, thereby freeing up more capital to jumpstart lending for small business owners.

“With this action,” Obama said, “any lender that provides SBA small business loans will have a buyer for those loans. And in turn, community banks will no longer have to choose between providing loans to creditworthy small businesses and maintaining the required capital and liquidity.”

At the same time, however, Treasury Secretary Timothy Geithner announced that the Treasury will increase reporting requirements on the top 21 banks receiving Federal funds to ensure that they are meeting their commitment to lend to small businesses. Under the new rules, these banks will be required to issue monthly reports on their lending practices.

“I want to deliver a clear message to our nation’s banks,” Geithner said. “The government of the United States has put in place extraordinary protections for the banking system...so that they have access to the liquidity they need. We need you to put that assistance to work for the American economy.” ■



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Stimulus Legislation Affects Employers and Workers

A sweeping \$787 billion stimulus package aimed at reinvigorating the flagging U.S. economy was signed into law by President Barack Obama on February 17. The American Recovery and Reinvestment Act of 2009 (ARRA) was designed to create jobs, encourage consumer spending, improve essential infrastructure, and strengthen the safety net for Americans affected by the economic downturn. The legislation includes a number of provisions for employers and workers, including additional tax relief for the unemployed, subsidies for COBRA benefits, transit benefit parity for employees, an expansion of a tax credit for employers who hire disadvantaged workers, and a new tax credit for all wage earners. In addition, ARRA extends and enhances tax breaks for small businesses that invest in qualifying equipment and green energy production.

Relief for the unemployed. Generally, unemployment benefits are considered taxable income. For 2009 only, the new law allows recipients to exclude from taxable income the first \$2,400 in unemployment benefits. ARRA also extends the Emergency Unemployment Compensation program, which had been due to expire at the end of March, until December 31, 2009. The program provides up to 33 weeks of benefits to unemployed workers. Under the legislation, weekly benefit payments will rise by \$25 per week.

ARRA also subsidizes the cost of health care coverage provided under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), which allows individuals to remain enrolled in their company health plan for a period of time after leaving a job. Previously, terminated employees covered the full cost of the health plan premiums themselves. Under the new law, workers who are involuntarily separated from employment between September 1, 2008 and January 1, 2010 are given the option of paying just 35% of the cost of COBRA coverage for up to nine months. The former employer will be required to pay the remaining 65%, but will be reimbursed by the government through a payroll tax credit.

The COBRA premium assistance under ARRA applies to all group health plans currently subject to COBRA, and to all forms of health care continuation coverage required by states.

Individuals with higher incomes (starting at \$125,000 for the taxable year) will be required to repay all or a portion of the premium subsidies.

Making Work Pay credit. Under this provision, wage earners and the self-employed are permitted to claim a credit equal to the lesser of 6.2% of earned income, or up to \$400 a year for single filers or \$800 a year for married couples filing jointly in 2009 and 2010. However, the credit begins phasing out at an adjusted gross income (AGI) of \$75,000 for single filers and \$150,000 for joint filers. Rather than sending out these rebates in the form of checks, employers will adjust the amount withheld from each paycheck, resulting in an increase in workers' take-home pay. Taxpayers who do not have taxes withheld by an employer during the year may claim the credit on their tax return. Self-employed taxpayers will be permitted to lower their estimated tax payments in 2009 and 2010.

Enhanced mass transit benefits. Starting in March 2009, the new law increases the amount that may be excluded from taxable income by employees who pay for qualified mass transit and van pools to \$230 per month, up from \$120 previously. This sum of \$230 is equal to the tax-free benefit for parking that employers may provide per employee, per month, through a qualified transportation plan.

Expansion of the Work Opportunity Tax Credit (WOTC). The WOTC, which provides businesses that hire members of certain "targeted groups" with a credit of up to \$2,400 per employee, is broadened under the provisions of ARRA to include unemployed veterans and "disconnected youth," or young people between the ages of 16 and 25 who have not been regularly employed or in school over the previous six months. The new categories apply to individuals who are hired and begin work in 2009 or 2010.

Bonus depreciation. For qualifying property bought and placed in service in 2009, small businesses have the option of depreciating 50% of the adjusted basis of the property, in addition to the usual depreciation that may be claimed for year one. This is an extension of the 50% bonus depreciation provision of the Economic Stimulus Act of 2008, which expired at the end of last year.



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Credits in lieu of bonus depreciation.

Companies that do not claim bonus depreciation are permitted under the new law to accelerate a portion of their AMT and research and development (R&D) credit carryovers for qualifying property placed in service in 2009. The amount of credit that may be accelerated is capped at the lesser of \$30 million or a company's historic accumulated AMT and R&D credits.

Extension of enhanced Section 179 expensing rules. In another extension of the 2008 stimulus legislation, the new law permits small businesses to expense up to \$250,000 of Section 179 property in 2009, equal to the amount permitted in 2008 and up from \$125,000 in 2007. Also as in 2008, the amount that may be expensed is reduced when the cost of the Section 179 property placed in service during 2009 exceeds \$800,000. If purchases exceed \$1,050,000, Section 179 expensing is not permitted.

Net operating loss carrybacks of up to five years. Businesses are generally permitted to "carry back" net operating losses to the previous two tax years, which may generate a tax refund for a preceding year. Small businesses, defined as those that averaged less than \$15 million in gross receipts over the past three years, will be permitted under the new law to carry back 2008 losses for up to five years, instead of two. The normal carryback period of two years will apply to losses incurred in 2009.

Discharge of indebtedness. Under the new law, certain companies that buy back their debt at a discount in 2009 and 2010 only will be allowed to defer taxes until 2014 and then recognize the deferred debt in income ratably over the next five years.

Enhanced breaks on sales of small business stock. Under the new law, investors will be permitted to exclude 75% of the gain from the sale of certain small business stock that has been held for more than five years, up from 50% previously. To qualify, the stock must be purchased after the date of enactment and before January 1, 2011. For the purposes of this provision, a small business is defined as a company with assets of less than \$50 million that conducts an active trade or business.

Extension of green energy credits. The legislation extends through 2013 existing renewable energy production tax credits for solar, biomass,

geothermal, and certain other alternative energy forms. The credit for producing electricity from wind is extended through 2012. The law also creates a new tax credit of 30% for certain renewable energy investments, up to \$2,000 for solar or geothermal installations, \$4,000 for wind, and \$500 for each one-half kilowatt of fuel cell capacity. The investment tax credit, currently available for 2009 and 2010 only, must be claimed in lieu of the production credit.

Small businesses, defined as those that averaged less than \$15 million in gross receipts over the past three years, will be permitted under the new law to carry back 2008 losses for up to five years, instead of two. The normal carryback period of two years will apply to losses incurred in 2009.

In addition to those that affect businesses and employees, ARRA also contains a number of tax provisions aimed at individuals, including an AMT patch, enhancements to the first-time homebuyer credit, an above-the-line deduction for new car purchases, tax breaks for higher education expenses, and an expansion of the credit for energy-efficient home improvements.

With the passage of the American Recovery and Reinvestment Act of 2009, Congress has provided more ways for businesses to reduce their tax bill. However, many of these provisions are temporary. For more information on how the new law affects your situation, contact your qualified tax professional. ■



Reduce Employee Stress Levels to Improve the Bottom Line

When people are overwhelmed by the challenges they face at work, feelings of stress are a natural response. In small doses, and followed by periods of relaxation, stress does not cause problems. But when pressure and stress are sustained and prolonged, exhaustion, inability to concentrate, and health problems result. While they may perform well enough under stressful conditions for weeks or even months, workers inevitably break down, becoming less productive, increasingly irritable, and ill to the point where they can no longer function. Yet, sometimes even minor changes to working conditions can alleviate stress considerably, greatly reducing the chances of burnout among essential employees.

The Negative Effects of Stress

Given the current economic climate, it is not surprising that employees are feeling stressed. For some workers, conditions have worsened: Amid layoffs, deterioration in the value of their homes and savings, and uncertain career prospects, growing numbers of Americans are worried as never before about their financial futures. And for many employees, the workplace has also become more demanding. Cuts in benefits and sometimes in wages, combined with added pressure and bigger workloads due to downsizing or hiring freezes, can lead to high levels of stress. In some types of jobs, employees also have to interact with nervous and complaining customers and suppliers. When staff is unhappy, they are less efficient, less motivated, and more likely to quit. Stress affects more than just morale: It also affects the bottom line.

Business owners are also feeling the impact of economic volatility, as they work harder than usual to keep their companies competitive and solvent under tough market conditions. While under these pressures, employers may forget that managing and, where possible, easing the stress among their employees is also essential to surviving and prospering in an economic downturn.



Strategies for Stress Management

Employers seeking to alleviate their employees' stress levels may consider ways to make their workload more manageable and give them more time for leisure and exercise. If regular exercise has become impossible for time-pressured employees, managers may want to organize a walking program that encourages workers to go out as a group for a half hour during lunch to stretch their legs or provide brief yoga sessions during breaks. Ensuring that workers have access to healthy food choices can improve morale and productivity. Employees should also be encouraged to make time to see their doctors regularly.

In the rush of day-to-day responsibilities, business owners often forget to simply show appreciation for their hard-working employees. Look for ways to celebrate your team. Surprise everyone by calling a meeting to discuss everything that is going well at your organization. Thank your employees for their dedication, and let them know that you understand their challenges. A positive attitude in the workplace can go a long way toward alleviating the negative effects of stress. As author Carlos Castaneda said, "The trick is in what one emphasizes. We either make ourselves miserable, or we make ourselves strong. The amount of work is the same."

But the best way to relieve stress is to empower employees. If the company is facing difficult times, managers may want to sit down with each employee to discuss how the conditions affect his or her job, as well as life outside the workplace. In some cases, employees may be offered flexible working arrangements or the opportunity to save time and money on commuting by working from home part-time. Managers should ask employees to tell them as frankly as possible about the pressures they are facing at work, and discuss strategies for alleviating them. A redistribution of the workload or a change in processes or practices can go a long way toward lightening the burdens of individual employees.

Finally, managers should not forget to ask employees for their ideas on how the company can meet its challenges more successfully. Even in hard times, employees who are actively involved in helping the organization weather tough conditions will feel greater loyalty toward their employer and motivation to perform their jobs well. ■

Computing in a Cloud

Keeping up with the latest computer technology and software is one of the greatest challenges of running a small business. Within a short period of time, computer hardware and software programs can evolve significantly, causing a business to lose its competitive edge if it fails to upgrade. Small companies that may not have their own information technology IT departments must pay IT consultants to handle upgrades, install software, and manage and repair hardware. They may also find themselves paying costly licensing fees for the use of software that employees use only occasionally.

This is where cloud computing can help. The “cloud” in cloud computing refers to diagrams that depict the complex connections of the Internet, which allow users to draw upon a widely dispersed infrastructure of servers and service providers. Cloud computing essentially eliminates the need for an in-house network, allowing users to rent software, as well as hardware and platform services, from remote vendors. These vendors store and manage data for companies for a fee that can be adjusted according to the actual usage and needs of the client.

In many cases, “renting” software from an outside provider is less expensive than buying an off-the-shelf software program, especially when it must be licensed for a larger number of users. There are other downsides to installing software onto an in-house network, including the fact that most programs will eventually be outdated and need to be upgraded at an additional cost, as well as the difficulties in accessing programs with computers not connected to the network. This can cause problems if employees are working on their home computers, mobile devices, or notebooks.

An example of cloud computing services is Google Apps, which can be operated through any web browser. While some of the basic services, such as Gmail, are free, access to more advanced business tools can be purchased for a per-user fee. Certain tools allow users to draft word documents or create spreadsheets, and share them with other users without having to resort to bulky e-mail attachments. Google stores all the files created using Google Apps centrally, making it easier to collaborate and manage documents, regardless of user location. All users also benefit from automatic, remote software upgrades.

Cloud computing allows businesses to gain access to the server capacity they require through services such as the Amazon Elastic Compute Cloud (EC2). This service essentially permits customers to rent space on servers to run their own applications. EC2 is “elastic” because users can purchase only the processes and data storage capacity they need, for as long as they need it, without having to invest in expensive new servers or additional disk space.

Cloud computing essentially eliminates the need for an in-house network, allowing users to rent software, as well as hardware and platform services, from remote vendors.

While cloud computing can offer companies cost savings and convenience, certain issues may arise, especially involving security and data backup. While remote providers are generally responsible for managing and securing client data, businesses have much less control over a decentralized network than their own in-house network. On the other hand, they benefit from the economies of scale offered by remote providers, which manage security updates and upgrades efficiently. And, unlike most small businesses, cloud computing vendors monitor their systems around the clock to ensure the highest level of security.

While breakdowns and data breaches are possible, most cloud computing vendors offer enhanced password security and encryption features for users concerned about privacy and security. Companies can also create their own backup copies of sensitive or important data.

Cloud computing can be a viable option to help small businesses keep up with the latest computer technology and software and maintain their competitive edge. ■

Solving Business Problems with Brainstorming

Brainstorming, a technique for generating ideas through group interaction, has been used in business circles for decades. When used to address concrete, well-defined issues in a structured manner, brainstorming can be an effective way to tackle specific problems, encourage teamwork, and build morale.

The Benefits of Knowledge Sharing

In an effort to capture the diverse information held by individual employees, some companies have implemented knowledge management systems designed to record this information and make it accessible to more people. While these systems can be useful for capturing and storing information like contact details or formal reports, they are less effective in recording intangible information, such as the personality of a key client or an idea about how a particular process could be streamlined.

During a brainstorming session, these intangible ideas can be shared and used more broadly within the organization. Brainstorming encourages people to think “outside the box,” taking a more playful and less rigid approach to addressing an issue or solving a problem. An insight offered by one person can stimulate the thought processes of others in the group, thus inspiring new ideas and solutions that individuals may not have come up with on their own.

Getting Started with Brainstorming

For a brainstorming session to be effective, however, several elements are required. First, the issue posed should not be too broad. For example, a group should not be asked to spend two hours generating ideas about how to improve sales over the coming year. Responses to this question are likely to be general and uninteresting. Instead, the group may consider a more focused question, such as how the company can improve the sales figures for a product that is

losing popularity or how to break into certain untapped markets.

Second, invite a facilitator from outside the organization who is trained in brainstorming techniques to lead the sessions. Having an external moderator can make employees feel more comfortable in expressing themselves than if the session were run by a manager or supervisor. An experienced facilitator will know how to get everyone involved, to present and summarize ideas in an easily comprehensible form, and to ensure that the session steadily progresses. An outside facilitator can also offer a fresh perspective, prompting employees to view the issue from various angles.

Third, remind participants that brainstorming does not require conventional boundaries, and that creative ideas are welcome. To promote openness, avoid any criticism, especially in the initial round of brainstorming. The ideas can always be evaluated at a later stage in the process.

Fourth, a brainstorming session does not need to include everyone in the organization. Instead, choose participants according to their knowledge and experience of the issue at hand, as well as their ability to think and express themselves concisely. Some employees may have difficulties with group discussions. If possible, invite those who are most likely to make constructive contributions.

Fifth, brainstorming sessions should not be allowed to drag on. Time limits are needed. If it appears that a particular issue needs more attention, another session can be scheduled for a later date. Employees may also contribute additional ideas and continue the discussion via an online forum.

Finally, after an issue has been discussed and the best ideas have been identified, compile a list of actions toward meeting your goals. Individuals or groups can then be assigned to implement them. Set a date for meeting to review the outcome of these actions, so that strategies can be evaluated and adjusted accordingly.

Brainstorming can be an effective way to generate ideas and encourage teamwork to solve specific business problems. By following the steps outlined above, your brainstorming sessions can be more focused and productive. ■



Succession Planning to Minimize Estate Taxes

Most business owners become wealthy the “old-fashioned” way—they work hard. But, suppose a business owner and his or her spouse were to die unexpectedly. Undoubtedly, they would hope their children or other family members involved in the business would reap the benefits of all their hard work.

Unfortunately for surviving family members who depend on the business for their livelihoods, their troubles may have just begun. Although estate planning concerns may arise for business owners from time to time, they are often relegated to the “back burner” due to the more pressing day-to-day demands of the business.

However, without prior planning, there may be no provisions in place to help pay estate taxes, which can be significant—as high as 45% for amounts over the applicable exclusion amount of \$3.5 million in 2009. With no planning, selling or liquidating the business may be required to raise the cash to help pay these taxes.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) has gradually reduced the estate tax, ultimately repealing it in 2010, but only for one year. A “sunset” provision included in the legislation nullifies all changes as of January 1, 2011. Unless Congress takes further legislative action, the estate tax will revert to its status prior to EGTRRA. This uncertainty underscores the importance of consulting with a team of estate professionals, including your attorney, as well as your tax and financial professionals, *early* in the estate planning process.

Potential Safeguards

Under current estate tax laws, there are several steps a business owner can take to help prevent his or her business from being liquidated to raise cash to help pay estate taxes.

One option is to *transfer* business ownership to family members using certain gifting or sale techniques. Your tax professional can provide guidance regarding your gift tax liabilities. Although relinquishing some control and becoming a minor stockholder is not easy, it can help reduce a business owner’s assets and thus, possibly, minimize the tax bite. In addition, a business owner could establish a trust to help ensure the estate is passed on to his or her heirs, avoiding probate.

Another option is to *defer* estate taxes. Estate taxes are due within nine months. However, the Internal Revenue Service (IRS) allows qualifying closely held businesses to defer taxes and then pay in installments (with interest) over a period as long as ten years. In this case, the estate must remain open until all estate taxes have been paid. Therefore, according to IRS records, very few businesses choose this option. Still, family-held businesses may wish to consider taking this step as a way to help avoid a likely drain on valuable assets and the possibility of a closely held ownership coming to an abrupt end.

Benefits of Planning

One effective tool that estate planners often use to help fund estate taxes is life insurance. The business owner can establish an irrevocable life insurance trust (ILIT), which purchases a life insurance policy on his or her life. The policy premiums can be funded by annual gifts made to the ILIT by the business owner, who can use his or her annual gift tax exclusion (\$13,000 to each recipient for 2009) in accordance with rules pertaining to Crummey withdrawal powers (*Crummey v. Comm*, 397 F.2d 82 (9th Cir. 1968)).

One effective tool that estate planners often use to help fund estate taxes is life insurance.

Most business owners work long and hard to build their business. Of course, they want to do all they can to help protect their heirs from a heavy estate tax burden, particularly if the company’s continued operations may be in jeopardy. Thus, it is important to develop a plan *before* the need arises.

Stay Current

It is important to keep informed about any changes in the estate tax laws and to maintain a strategy that works for your business and your family. While there are obvious up-front costs involved in establishing an estate plan, in the long run, business owners generally find that it is money well spent. ■





Employers Step Up Communication about Economic Conditions



Improved communication about the financial performance of the company and job security can help alleviate employee concerns about the impact of the current economy on the organization and, potentially, on their own livelihoods, according to a survey conducted by human resources consultancy Watson Wyatt.

Based on responses from 92 employers, the survey found that 77% have already sent out or are in the process of preparing some type of formal internal communication on the implications of the financial downturn for the organization and its employees. When asked to identify their motives for these communications, 69% cited a desire to ease employee anxiety, while 32% said their goal is to earn the trust of employees.

When asked to name the issues employees are inquiring about most frequently, 43% of the employers cited job security; 36%, company performance; 28%, bonuses or other incentive pay; 25%, the impact on customers; 15%, benefit programs; and 14%, base pay.

When asked to assess the effectiveness of their communication efforts to date, 44% believe their

communications have been moderately or very effective in maintaining and improving employee productivity, 43% think the communications have helped to reduce employee stress and anxiety, and 40% believe the communications have been effective in improving employee engagement.

At the same time, however, more than one-quarter (27%) of respondents said they are uncertain about how effective the communications have been in improving employee engagement, and more than one-third (38%) admitted they do not know how effective their communications have been in maintaining or improving employee productivity.

When asked to identify the types of forums or media used to communicate, 87% of the employers cited “town hall” meetings, staff meetings, and other forms of face-to-face discussion. However, 86% also indicated that some communications are delivered via e-mail, 76% said communications are posted on the company intranet, and 24% reported that social media are sometimes used. ■

Most 401(k) Plan Sponsors Continue to Provide Match

Despite current economic conditions, most sponsors of 401(k) retirement plans continue to provide matching contributions, and most employees who participated in plans prior to the downturn continue to contribute to their accounts, according to a survey released by benefits consultancy WorldatWork and the American Benefits Council.

In a survey of 505 human resources professionals, nearly three-quarters (74%) reported that their organizations had not changed the employer matching contribution in the last 12 months and did not intend to do so. In addition, nearly two-thirds indicated that employee participation rates (63%) and employee contribution percentages (65%) had stayed about the same over the past 12 months.

However, the results also suggested that the number of employees making early withdrawals from their 401(k) accounts is rising: 49% of respondents observed an increase over the past year in the number of participants taking loans, 43% reported a rise in employees taking hardship distributions, and 32% noticed a general increase in withdrawals from the plan.

Overall, around three-fifths of respondents said the financial downturn had not yet led to any changes in their organization’s 401(k) plan. Of those who did report that their company’s plan had been affected, the leading changes made included a ramp-up of education and communication to plan participants; the actual or considered suspension or reduction in the employer match; adjustment of investment options or funds; and more vigilant review of investments and plan advisors. ■

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