

COVID-19 Leaves Businesses Uncertain

BY JIM ROCHE



It's often said that the more you learn about a topic, the more you discover how much you don't know. This rings true for the COVID-19 pandemic. As we learned more about the virus and our responses to it, we discovered more uncertainties. Uncertainty in the business world is, in a word, bad.

Businesses need certainty for forecasting, planning, scheduling, and preparation. Without it, businesses are flying blind, greatly increasing their risk of failure.

The once flourishing state and national economies quickly went into freefall with government-mandated stay-at-home orders to prevent the spread of COVID-19. In February, the unemployment rate was the lowest it's been in half a century. Just two months later it jumped to its highest point since the Great Depression.

Federal and state governments responded quickly to alleviate economic hardship. However, no sooner did the federal government pass the Coronavirus Aid, Relief, and Economic Security (CARES) Act, uncertainties emerged.

The CARES Act included the Paycheck Protection Program (PPP), providing employers with forgivable loans to maintain their payroll.

While the program seemed straightforward, it lacked important details. Employers wondered when they'd get financial assistance and how long it would last. They had questions about qualifying payroll, overhead expenses, how to ensure the loan would be forgiven, and other concerns.

The CARES Act also included unemployment benefits, providing an extra \$600 per week. Unfortunately, that money was not capped at employees' previous wages, allowing many to earn more on unemployment than they did working. The unintended consequence was that it disincentivized many people from returning to work when called back by their employer.

State actions also contributed to business uncertainty. In NH, ambiguous language about requirements versus recommendations embedded in workplace health guidelines confused employers. In other cases, guidelines were challenging to follow because personal protective equipment and screening supplies, such as non-touch thermometers, were difficult to acquire in the pandemic's early weeks.

Inaction Also Creates Uncertainty

Federal and state inaction on employer liability added further uncertainty. Absent a legal safe harbor for employers who follow CDC and state health guidelines, many businesses are concerned about lawsuits from employees, customers, or visitors. This is causing some enterprises not to reopen, and others to delay returning to pre-pandemic conditions. Even if legal action against a business is unlikely to succeed, businesses are nevertheless forced to spend valuable resources defending themselves.

Employers are also worried about possible increases in the Business Profits Tax (BPT) and Business Enterprise Tax (BET). If business tax revenues were 6% lower than

projected, it would have triggered increases in January. The trigger was agreed to during budget-making negotiations last fall when COVID-19 didn't exist. Lawmakers moved forward without freezing the trigger. Unaudited June revenue figures appear to show a 5.4% decline, which barely misses triggering increases.

Another challenge will be replenishing the unemployment insurance trust fund. The steep rise in unemployment resulting from government-mandated shutdowns caused the trust fund balance to drain as the ranks of unemployed rose. Revenue for the trust fund comes from unemployment insurance taxes paid by employers on behalf of employees. Trust fund depletion will result in higher unemployment insurance taxes, a particularly egregious consequence for positive-rated employers.

Many of these issues will remain when the legislature reconvenes in January. Uncertainty about how these challenges will be met, and their effect on employers, means it's more important than ever that business leaders express their fears. ■



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