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# PrestigePEO

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July 1, 2020



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# COVID-19

## We Are Here For You

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# Today's Presenters



Jason Flinn  
Today's Moderator  
and Director of  
PrestigePEO Client  
Services



Andrew Lubash  
Founder and  
Principal of  
PrestigePEO



Kimberly B. Malerba  
Partner, Ruskin  
Moscou Faltischek  
P.C.



Carol Sawyer  
Tax Manager at  
PrestigePEO



# Today's Topics



- Returning to the workplace
  - Recalling employees from furlough
  - Managing employee illness and childcare leave issues
  - Addressing employee fear and high risk individuals
  - Wage and hour concerns
- PPP Loan - key points summarized

- ❖ Webinar Forum
  - All participants are muted.
  - Please type questions in the side navigation panel and we will try to address most questions.
  - Today's presentation will be posted [prestigepeo.com/covid-19](https://prestigepeo.com/covid-19).

## Welcome Update Presented by Andrew Lubash



- Andrew (Andy) Lubash is Founder and Principal of Prestige Employee Administrators.
- Andy currently holds several positions at the National Association of Professional Employer Organizations (NAPEO);
  - Chairman of the Board of Directors
  - Member of the Federal Government Affairs Committee
  - Member of the Healthcare Committee
- Previously, Andy was Chairman of the State Government Affairs Committee for five years.

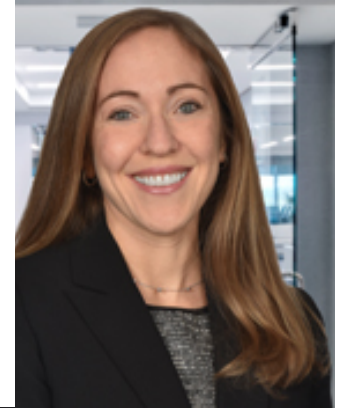
## Kimberly B. Malerba, Esq. Ruskin Moscou Faltischek P.C.



- A partner at Ruskin Moscou Faltischek, P.C., Kim chairs the Employment Law and Digital Media Practice Groups, and is also a member of the firm's Litigation Department.
- Kim handles virtually all matters involving the employer-employee relationship. Her areas of concentration include wage and hour compliance and investigations, employment discrimination and workplace harassment prevention, policy development and litigation, and independent contractor analysis.
- In her counseling practice, she regularly advises employers on best practices concerning management of disability accommodation and leave-related issues, reductions in force, restrictive covenants, hiring and separations from employment, and performance management.
- Kim is a graduate of Benjamin N. Cardozo School of Law, (J.D. magna cum laude, 2003) and Binghamton University (B.A. with honors music and philosophy, magna cum laude, 2000).



Kimberly B. Malerba, Esq.  
Ruskin Moscou Faltischek P.C.



# RETURNING TO THE WORKPLACE: NOW WHAT?

Kimberly B. Malerba, Esq.  
Ruskin Moscou Faltischek P.C.

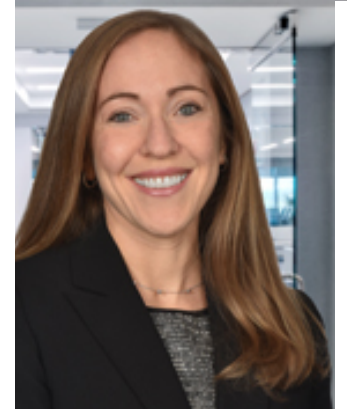


## Today's Topics

- Recalling employees from furlough and returning remote workers to the workplace.
- Managing employee illness and childcare leave issues – the FFCRA, ADA, and state law.
- Addressing employee fear and high risk individuals – complying with New York law and CDC guidance.
- Wage and hour concerns raised by a modified workforce and remote work.



Kimberly B. Malerba, Esq.  
Ruskin Moscou Faltischek P.C.



## Recalling Employees From Furlough

- Complying with New York State Law
  - New York Forward Safety Plans
- COVID-19 Testing and Antibody Testing
- Contact Tracing

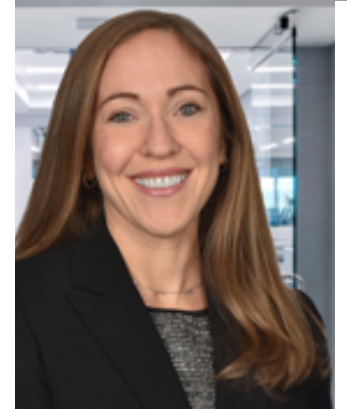
Kimberly B. Malerba, Esq.  
Ruskin Moscou Faltischek P.C.



## Managing Employee Illness and Childcare Leave

- Families First Coronavirus Response Act
  - Emergency Family and Medical Leave Expansion Act
  - Emergency Paid Sick Leave Act
- Family and Medical Leave Act
- Americans with Disabilities Act
- New York State Quarantine Leave
- New York Paid Family Leave

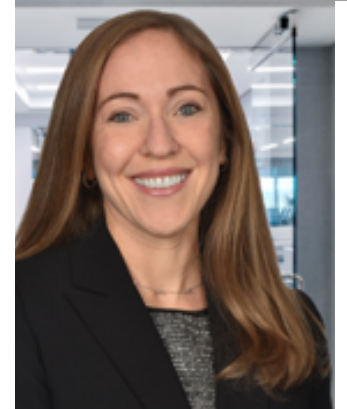
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## Employee Fear and High Risk Individuals

- Employees Refusing to Return to Work
- High Risk Individuals and Reasonable Accommodations
- Unpaid Leaves of Absence
- Unemployment Insurance

Kimberly B. Malerba, Esq.  
Ruskin Moscou Faltischek P.C.



## Wage and Hour Concerns

- Reviewing Exemption Classifications
- Remote Work
- Tracking Hours of Non-Exempt Employees
- Additional Employee Benefits



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# PPP Loan “Key Points”

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## PPP Loan – Key Points

- June 30, 2020 **was** the deadline to be approved for a loan. Late yesterday, the Senate passed an extension to August 8<sup>th</sup>. Waiting for the House.
- Covered period begins on the day the loan proceeds are deposited into the borrower's bank account. (Weekly and Bi-weekly payers may choose an alternate covered period starting with first day of next pay period)
- Loans approved before June 3, 2020 can choose between 8 weeks or 24 weeks for the covered period
- Loans approved after June 3, 2020 must use the 24 week covered period.
- Borrowers choose the covered period on the forgiveness application

## PPP Loan – Key Points

- A minimum of 60% of loan proceeds must be spend on payroll costs – wages, state & local taxes, employee health insurance and 401k contributions
- Up to 40% of the loan proceeds can be spent on mortgage interest payments, rent or lease payments, and utilities.
- Total payroll costs divided by 0.60 equals the maximum that can be forgiven
  - \$100,000 loan \$55,000 payroll costs Maximum forgiveness is \$91,667

## PPP Loan – Key Points

- There is no deadline to apply for forgiveness.
- Interest is deferred until the date on which the borrower is notified of the forgiveness amount
- If borrower does not apply for loan forgiveness within 10 months after the last day of the covered period, the PPP loan is no longer deferred and the borrower must begin paying principal and interest
- Borrowers using the 24 week covered period may apply for loan forgiveness prior to the end of the 24 week period.



# PPP Loan – Key Points

- Employee cashed compensation is capped at:
  - 8 weeks is \$15,385
  - 24 weeks is \$46,154
- Owner-employee total (including benefits) compensation is capped at:
  - 8 weeks is \$15,385
  - 24 weeks is \$20,833
- Payroll costs that are paid OR incurred (paid on next scheduled check date) are eligible for forgiveness

# PPP Loan – Key Points

- Owner-employees
  - Owner-employees are S Corporation shareholders, partners and members of an LLC and self-employed individuals
  - Compensation reported on Line 9, Schedule A – not in the tables on Schedule A Worksheet
  - Payments for health insurance and qualified retirement plans are not added into the amounts paid on behalf of employees.
  - Compensation cap for owner-employees of \$100,000 covers cash payments and benefits

# PPP Loan – Key Points

- FTE Reduction Exceptions
  - Reductions due to resignations, voluntary reduction in hours or fired for cause.
  - Borrower makes a good faith, written offer to restore reduced hours to an employee and employee rejects the offer, employee won't count against the FTE reduction (IFR requires that state unemployment be notified)
- Wage/Rate reduction calculations are for the rate only – not total compensation caused by a reduction in hours

# PPP Loan – Key Points

- FTE Safe Harbors
  - If borrower restores FTE as of the date the loan forgiveness application is submitted (does not need to be December 31, 2020)
  - If borrower is unable to operate between 2/15/20 and the end of the covered period at the same level of business activity as before 2/15/20 due to HHS, CDC or OSHA requirements/guidance relating to COVID-19
    - SBA is interpreting this rule to include both direct and indirect compliance with COVID-19 requirements.



## PPP Loan – Key Points

- If after the 8 week covered period, business conditions require layoffs or furloughs, there will be no affect on forgiveness
- For borrowers using the 24 week covered period that apply prior to the end of the 24 weeks may need to maintain FTE's through to the end of the 24 week period.
- Each employer will need to decide if 8 weeks or 24 weeks is better for their situation.

# PPP Loan – Key Points

- New “EZ” application form
  - Employers that did not reduce salaries/wage rates by more than 25% during the covered period for employees making less than \$100,000, and did not reduce number of employees or the average paid hours between 1/1/20 and the end of the covered period.
  - Employers that did not reduce salaries/wage rates by more than 25% during the covered period for employees making less than \$100,000, and were unable to operate during the covered period at the same level of business activity as before 2/15/20 due to Covid-19
- Simple two page application!

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# COVID-19 Client Communications

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# COVID-19 Communications

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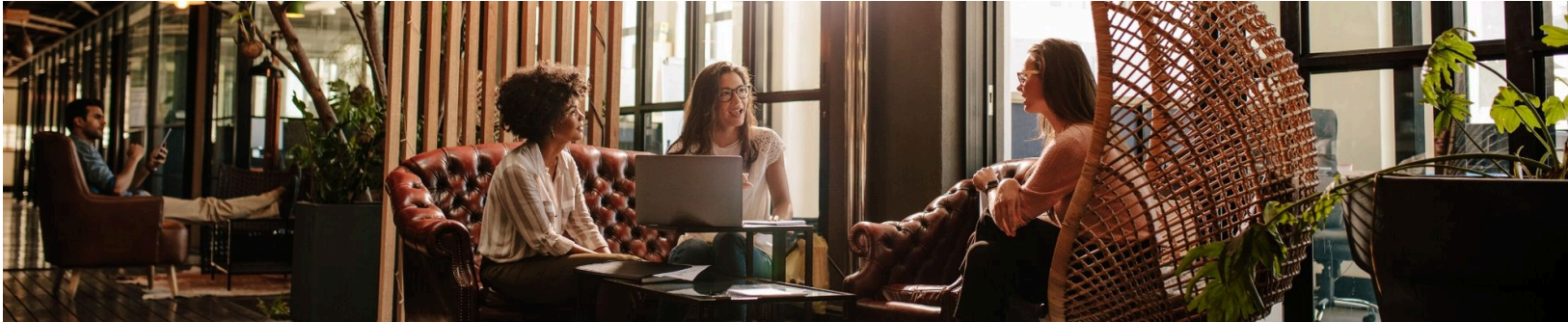
- Special thanks to our guest, Kimberly B. Malerba, partner at Ruskin Moscou Faltischek P.C., [KMalerba@rmfpc.com](mailto:KMalerba@rmfpc.com)
- Today's presentation will be posted on our COVID-19 resource center located at [prestigepeo.com/covid-19](https://prestigepeo.com/covid-19)
- The PrestigePEO weekly email [newsletter](#) will deploy later this week
- Join us on [Facebook](#), [LinkedIn](#) and [Twitter](#) to receive frequent updates
- Stay tuned for an invitation to one of our future [webinars](#) and new [podcast discussions](#)





# COVID-19 Client Support

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- Hear the latest on PPP and Returning-to-Work on our new “[HR in15](#)” podcast at “[HRin15.com](#)”
- Visit our resource center [prestigepeo.com/covid-19](https://prestigepeo.com/covid-19) for all things COVID-19
- Contact our support teams - HRBPs, Payroll, Benefits, Compliance, Workers’ Comp & Retirement Specialists - directly from our [PrestigeGO mobile app](#)





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