

## **Transcript for unclear presentation audio beginning at 2:36.**

[2:36] Thank you Tim and the rest of the NAA Board for inviting me here to address your membership. I hope that what I have to say adds some value to the conversation. We're going to be talking about, as you can see on your screen the COVID-19 Emergency Legislation. The approach of this presentation is really to look at this from more of a strategic standpoint, and I understand that I am speaking to a lot of people who are self-employed, so I am going to address that. As you know, the bulk of the legislation, at least, is directed towards those business who have W2 employees, so we are going to talk about how those provisions affect you who have W2 employees, but I will also inject comments about folks who are self-employed. So, without further ado, I am going to go ahead and get started here.

[3:42] We're dealing with a situation that obviously we have never had to deal with before, but we've dealt with crises before in our past, we've dealt with 9/11, we've dealt with the great recession. There's a pattern that usually emerges, which is that we stop immediately and we put out the fire and then we start to look around and ask ok, how do we put these pieces back together again, so that not only can we survive this, but so that we can do better, so that we can actually have a stronger organization, a stronger company, or a stronger individual practice once this is over. And that's how I like to think of how I'm going to improve. Plans for organizations to reorganize themselves to become stronger, healthier versions of themselves. And that's the opportunity we have here.

[4:39] And now that we are past the panic and we're getting used to the everyday, it's time for us to think strategically. How do we manage business expenses? How do we manage cash flow? Is there stuff that we need to be paying right now, or do we need to be hanging onto the cash right now because we don't know what the future is going to be? Also how do we reduce payroll?

[5:02] But how do we do all of these things and manage our business and practices in a way that preserves the market share? We don't want to lose the customers and the contacts we have. We also don't want to lose our reputation. We don't want to be known as people who took advantage of the situation. So we want to make these changes and deal with the crisis and emerge a stronger version of ourselves. We also want to preserve the institutional and trade knowledge and make sure that we don't lose the relationships, especially people who work for us, in a way that's permanent. You remember a couple of months ago, the unemployment rate was extremely low, a lot of people were having trouble finding qualified people. We want to maintain those relationships.

[5:52] So, we look at the tools that we have in our toolkit, the things that we can use to make sure that we are successful moving forward, and what are those tools. Well, those tools are in the form of a lot of statutes that have been passed and when these statutes first came out, a lot of businesses were saying 'oh this is going to create a burden for me', or 'this is too hard for me to deal with.' In actuality now that we have had a chance to digest it a bit, we see these as

strategic tools, things that can actually help the business. We are looking at expanded state unemployment benefits. It's not just here in Maine where I am, but across the country we're seeing states expand their unemployment. We are looking at federal government enhancements to state benefits, allowing money on top of state benefits or granting more benefits. We are looking at federally funded paid leave under the Families First and the Coronavirus Response act. We are looking at paycheck protection program which everyone is talking about a lot right now. The PPP, the paycheck protection program forgiveness provisions, which not a lot of people are talking about, but it's something we need to be talking about right now. And then there's also the retained employee tax credits which are a very useful in tax credits for companies that have been really severely impacted and completely shut down as a result of the coronavirus.

[7:30] Let's first talk about these paid leave provisions. Under the Families First Coronavirus Response act, what we call the Families First act. There are two main provisions to this act that affect employers, people who have employees. One is this expanded FMLA benefit. The FMLA leave benefit allows employees who have a qualified reason to take an extended period of leave, up to 12 weeks of protected leave, and 10 of those 12 weeks are paid under this program. Now, you may have heard of the FMLA which is a program that still is for companies that have 50 or more employees. This expanded FMLA program is for companies that have 1-500 employees, so this really applies to just about everybody in the country.

[8:28] In order for the employee to claim benefits, the employee must have been employed in the 30 days prior to the leave. There is only one qualifying reason for this leave. There's only one reason why somebody can apply and take this leave and be paid for it, and that is because their son or daughter is home because their school or daycare was closed as a result of the COVID-19 crisis. No other reason is covered under this. There's FMLA that applies to every other reason, medical reasons and things like that, but those aren't paid. The only time you can get paid is if you have to stay home with a child, stay home with their son or daughter. And that is a really important distinction. We have been getting a lot of questions from people that are asking things like 'can I claim this FMLA benefit if I stay home because I'm not comfortable coming to work', and the answer to that is, no. The only reason, the only qualifying reason for this benefit is to take care of a child who is home because their school or daycare is closed as a result of the COVID-19. And the reason why that's important is, it's not just so that you will or can so 'no' to your employees, nobody likes to say 'no' to their employees. It's because if you don't have a qualified reason, then you're not going to get the tax credit, and we'll talk about the tax credit here momentarily.

[10:00] So, they get up to 12 weeks of leave, the first two weeks of that leave are unpaid, but they can use their paid leave under the next provision, we're going to talk about in a second. Then it goes up to \$200 per day, and it's capped at \$10,000 in total. So, they get 2/3rds of their pay and it goes up to \$200 per day, capped at \$10,000 in total. And you must make reasonable efforts to restore the employee to their prior position. This is different than the FMLA standard.

Under the FMLA standard under the existing law, you had to bring them back and either put them in their position or an equivalent position. Here you just have to make a reasonable effort to bring them into their position or an equivalent position. And a reasonable effort means that if you had to hire somebody to replace them you don't necessarily have to fire that person, you just have find something else either for the employee who took the leave to do, or if you can't hire them back, then you have to put them on a call list and call them back when another job becomes available. So that's a more lax standard than under the FMLA. I think the intent was to really balance the burden between the people who are needing to leave and the small companies that are trying to stay in business and trying to manage their companies during the crisis.

[11:35] Next is the paid sick leave, and this is also under the families first act. This paid sick leave is similar to the expanded FMLA, but it's also a little bit different. This is available to all the employees, they don't have to have worked that 30 days prior to the leave, this is available to everyone. This gives them 80 hours for full-time employees. If you had a part-timer, we pro-rated that based on how many hours they have worked in the last 30 days. This is paid sick leave for employees that are affected from one out of six things. And the categories are really broken down into two main categories. The first is employees affected by COVID-19. These are people directly affected by it, they get the disease, or they get symptoms and are waiting to get tested, or they are told in some way they need to self-quarantine, or they have traveled overseas or out of state and they are ordered to quarantined – not that they decided to quarantine themselves, but that they are ordered to quarantine. So that is 1-3, those individuals qualify for those reasons 1-3, they get 100% of their pay, up to \$511 per day or \$5110 in aggregate.

[13:06] The next category, reasons 4-6, is for employees that are involved in caring for others to get 2/3rds of their regular pay, up to \$200 per day. This is for people who are taking care of their kids. They can use these funds for the first two weeks of their pay. Or people who are taking care of someone else who is sick, or someone who is quarantined, or someone who is actually suffering from the coronavirus. These people get 2/3rds of their regular pay, and again that's per 80 hours for a full-time employee. The critical thing about this benefit is that the employee can choose to use either this benefit or use their existing paid time off. So, if your company grants employees paid time off, then the employee gets to choose, not you, not the employer, the employee gets to choose which one they want to use. There is a reason that you as the employer might want to encourage them to use the benefit and that is because the benefit under this particular law are paid for, 100% offset, by tax credits. So you can deduct 100% of the amount that you spend on qualified leave from your payroll taxes. And not just the employer's percentage of payroll taxes, but the entire thing. So you will be looking at social security, employer share of tax, employee's share of withholding, employer's share of withholding. So it's a pretty broad bucket to draw these benefits from and that could prove to be a really useful tool for employers. The critical thing here, and I can't stress this enough, is that you must have a covered reason for taking the leave. And the covered reason must be

documented. So if you have someone who is out because of child care, you're going to need a note from them, your going to need an email from the school board, or a print screen from the school's website, or something along those lines to ensure that you have the proper documentation. Just like any other tax deduction you want to take, if you don't document that, you can have problems in the future.

[15:18] Next is the state unemployment benefits. Under the state unemployment benefits, remember before this happened, most state unemployment benefits were designed to help you bridge the gap from one job to the next job. It didn't pay out all that much and must be capped at a certain level.

**Presentation audio clear beginning at 15:47.**