

## **MEMORANDUM: CARES ACT MISCELLANEOUS PROVISIONS**

To: Our Clients  
From: Michael Di Pietro, CPA  
Date: March 30, 2020

### **SUBJECT: CARES ACT MISCELLANEOUS PROVISIONS**

#### **FORECLOSURE MORATORIUM**

There is a general moratorium regarding foreclosures with regard to federally backed mortgages (i.e, SBA, GMMMA, FHA, etc).

Borrower must request forbearance and this includes owners of multifamily homes (as long as they agree not to evict tenants or issue late charges, etc.)

#### **IRS ENFORCEMENT UPDATE**

##### **DUE DATES & TAX PAYMENT DEFERRALS**

##### **IRS/Treasury Update**

1. The Treasury/IRS has granted a 90-day deferral to file and pay income taxes due on April 15<sup>th</sup>;
2. The taxes covered are income taxes, including self-employment taxes reported on a 1040. No other types of taxes are covered, so gift taxes, payroll taxes, etc. remain due on April 15, 2020;
3. Interest and penalties begin to accrue on July 16, 2020 if the taxes are not paid before July 15, 2020; and
4. First quarter estimated taxes are also deferred to July 15, 2020.

#### **COLLECTIONS**

Collections are standing down regarding issuing new liens or levies.

- OIC payments are deferred. Now is a great time to modify existing agreements or consider setting up an OIC.

## **LEASES AND CONTRACTS**

The COVID-19 lockdown by the government qualifies as a “force majeure” which is a legal term stipulating that due to unforeseeable circumstances, a lease (or contract) was impossible to fulfill.

If your lease or contract has a “force majeure” clause, you may have a legal basis to cease performance on the contract at least through the lockdown. You need a professional to review the contract, lease etc. and you need to communicate early and effectively to provide notice under the “force majeure” provision.

If you’re contract (lease) does not have a “force majeure” clause, the common law doctrine of impossibility/ impracticability may apply. You need to consult an attorney in contract law.

## **BUSINESS INTERRUPTION INSURANCE**

You should check your business insurance for claims due to business interruption and see if COVID-19 applies here. Again, timely and meticulous notice requirements need to be met. I recommend you make a claim even if payment is unlikely. You can discuss this further with me if necessary. California Insurance Commissioner Ricardo Lara has recently issued an order (March 27<sup>th</sup>) for California insurance companies to submit data regarding coverage. If your insurance carrier does not or will not provide coverage, you may want to inquire with the commissioner’s office at [cdipress@insurance.ca.gov](mailto:cdipress@insurance.ca.gov). Various states have already begun to explore retroactively nullifying exclusions to business interruption coverage for COVID-19. That is why you should make a claim regardless to your coverage.