

# CLIENT ALERT

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## **\$200 MILLION IN FUNDING AVAILABLE FOR SMALL BUSINESSES THROUGH NEW TENNESSEE BUSINESS RELIEF PROGRAM**

*by Kevin W. DeHart and Ralph Z. Levy, Jr.*

Tennessee Governor Bill Lee has announced the Tennessee Business Relief Program ("TBRP") intended to assist Tennessee businesses affected by the COVID-19 pandemic. The TBRP will oversee the distribution of approximately \$200 million in federal Coronavirus Relief Funds through the Tennessee Department of Revenue ("TDOR") directly to small businesses that qualify for relief based upon the type of business conducted. It is unclear how the businesses covered under the TBRP were determined; however, it was designed to reimburse small businesses for costs incurred as a result of mandatory closures. The TBRP focuses on businesses that collect sales tax or pay business tax and were required to suspend or significantly modify their operations under Tennessee Executive Order. Governor Lee has tasked the TDOR with issuing business relief payments through this program to qualifying businesses.

While specific details continue to be posted on the TDOR's website, the amounts awarded will be based upon the annual gross sales of a given business. Gross sales totals for each eligible business will be based upon what the business reported on its applicable sales or business tax returns. This amount will be determined by looking at the greater of the reported gross sales on of an eligible business's calendar year 2019 sales tax returns or the reported gross receipts on its most recent business tax return. Therefore, businesses that are not registered with the TDOR or that do not file either sales tax or business tax returns are not eligible for a business relief payment. Qualifying businesses will receive business relief payments regardless of whether the business has received a benefit under a separate federal or state program and will receive notification and information about their relief payment upon issuance of the same.

While not clear how it was calculated, according to statistics available on the State of Tennessee's website, approximately 28,000 Tennessee businesses are expected to participate in the TBRP, with the vast majority of those businesses generating annual gross sales of \$500,000 or less. Information regarding the timing of the payments will be posted to the TDOR's website when available; however, the TDOR has stated that payments will be made by direct deposit if the business has previously provided bank account information and authorized the TDOR to save that information. Otherwise, payments will be made by check. According to the TDOR, there is no need for business owners to request or apply for a business relief payment as the TDOR will determine eligibility and issue payments directly to businesses. In a recent development, the TDOR has clarified that the qualifying payments made under the TBRP are not loans and do not have to be repaid.

As posted on the State of Tennessee's website, the following types of small businesses are eligible under the program:

- Barbershops
- Beauty shops
- Nail salons
- Tattoo parlors, spas, and other personal care services
- Gyms and fitness centers
- Restaurants
- Independent artists, writers and performers
- Agents and managers of artists, athletes, and entertainers

- Theaters, auditoriums, performing arts centers, and similar facilities
- Museums, zoos, and other similar attractions
- Amusement parks
- Bowling centers and arcades
- Marinas
- Amusement, sports, and recreational industries
- Promoters of performing arts, sports, and similar events
- Hotels and other travel accommodations

In addition, the following small businesses are eligible if their sales were reduced by at least 25%, as shown on their April sales tax returns which were filed in May:

- Furniture stores
- Home furnishing stores
- Clothing stores
- Shoe stores
- Jewelry, luggage, and leather goods stores
- Sporting goods, hobby, and musical instrument stores
- Book stores
- Department stores
- Office supply, stationery, and gift stores
- Used merchandise stores
- Other miscellaneous stores

Assistance under the TBRP is only available to the types of businesses listed above and notably exclude businesses engaged in manufacturing or providing professional services such as doctors, lawyers, accountants, architects, contractors, electricians, plumbers, real estate agents, and other professionals.

If your business has been negatively impacted by the COVID-19 pandemic and you have questions about the TBRP, Dickinson Wright attorneys are here to help. For more information, call Ralph Z. Levy Jr., Esq., at 615-620-1733, or Kevin W. DeHart, Esq., at 615-780-1115, in the Nashville, TN office.

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