

March 16, 2020 11:15 AM

Dear Clients, Colleagues and Friends:

Culminating a rapid series of national and local developments in the fight against the spread of Coronavirus, on a conference call this morning with the Governors of New Jersey and Connecticut, New York Governor Cuomo announced that all three states will be mandating restaurants move to delivery and take out only starting at 8 p.m. tonight. This comes on the heels of a similar announcement made by New York City Mayor Bill de Blasio last night.

Hopefully the impact will be temporary and our lives and businesses will return to normal soon, but in the meantime tough decisions must be made.

We are writing to offer our moral and professional support.

Earlier yesterday, New York Governor Andrew Cuomo called on restaurants and bars statewide to close down “voluntarily”.

Some obvious questions are:

- Can we survive as a “to go” or delivery-only restaurant?
- Should we close temporarily? Should we close permanently?
- How can we survive if we choose to continue operating?
- Can we expand our delivery area and online presence?
- Should we choose to temporarily close, how can I assure survival and a successful re-opening?
- Are there potential public relations consequences to remaining open?
- Do we have to continue paying rent?
- What is our legal exposure with vendors and other creditors?
- How do we handle the sensitivities and legalities of employment matters?
- Will insurance cover any losses?
- What economic assistance is available?
- What other resources are available?

We strongly advise you to seek advice from your team of professionals including your corporate attorneys, your labor attorneys and your insurance professionals as well as A&A regarding economic matters. If you do not have an expert in any of these areas, we can recommend one to you.

Obviously, your largest expenses are rent and labor and your toughest decisions lie there. We are available to help you analyze these matters.

Regarding the payment of New York State sales tax which is due on March 20th please keep in mind that the late payment penalty is 10% on day one and that sales tax funds collected do not belong to you; you collect them as a fiduciary for New York State. Historically New York has been steadfast in not granting any sales tax penalty relief so we urge you not to assume any would be given, although, we suppose, anything is possible. Payroll taxes similarly are a fiduciary responsibility.

We stand ready to discuss any needed changes in the services we provide to you, including possible assistance gaining funding or government benefits.

There have been various programs proposed and proclaimed but details are few and accessing or applying for help is really not yet possible. We've provided some relevant links below.

On the federal level, the stated approach is to prioritize its economic actions first to relief, then broad fiscal stimulus and then industry support (e.g. Airlines and Cruise Lines)

Proposals or declarations by the federal government include:

- The President has declared a national emergency, unleashing the full power of the federal government including charging the Small Business Administration with making funds available to businesses in need.
- The president has announced an indefinite waiver of student loan interest
- The Federal Reserve has moved to lower interest rates to “near zero”.
- The House of Representatives has passed an economic relief bill dedicating tens of billions of dollars for health care costs as well as paid sick leave and unemployment insurance.
- The President has proposed a payroll tax waiver for the rest of the year
- Various parties have proposed delaying the federal income tax filing deadline from April 15th. We believe this is likely to occur.

We fully expect a very significant fiscal stimulus package to be enacted to help stave off or cut short an economic recession.

New York State has suspended the seven-day waiting period for unemployment insurance. Note: employees working less than four days per week may be eligible for New York State unemployment insurance.

New York City has announced that it is making small business loans available.

Resources:

Trade Groups:

<https://www.nysra.org/>

<https://www.thenycalliance.org/>

<https://restaurant.org/covid19>

Industry Attorney's:

<https://helbraunlevey.com/coronavirus/>

<https://www.jacksonlewis.com/practice/coronaviruscovid-19>

<https://www.foxrothschild.com/coronavirus-resources/>

Government:

<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>

<https://www.usa.gov/coronavirus>

<https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

<https://www.irs.gov/coronavirus>

<https://www1.nyc.gov/site/finance/about/covid-19.page>

<https://www1.nyc.gov/site/sbs/businesses/covid19-business-outreach.page>

<https://www.consumerfinance.gov/about-us/blog/protect-yourself-financially-from-impact-of-coronavirus/>