

FISCHER PORTER & THOMAS, P.C.

MEMO RE BUSINESS INTERRUPTION COSTS

As we all do our best to deal with the effects of the COVID-19 Coronavirus pandemic, there are certain steps we can all take to lay the groundwork for being compensated later for the losses caused by the crisis.

Compensation could come through the business interruption insurance policies some businesses carry. Many insurance specialists believe insurance companies will narrowly interpret policies and look for exclusions that may allow them to deny coverage, but some states including New Jersey are considering rules and legislation to require carriers to provide coverage despite such exclusions. Of course, this is not a sure thing.

Compensation could also come directly from state or federal government agencies.

No matter what the source, it will be important to document losses as thoroughly as possible.

We therefore suggest taking these steps now to document your costs and losses and make it easier to submit a claim later:

- Create general ledger accounts to keep track of out-of-pocket costs you're incurring now – cleaning costs, protective gear, software and services for working remote, conference calls, costs of paid leave, child care allowances, replacement workers, transportation, security, etc.
- Prepare to track revenue reductions resulting from cancellations or lost orders
- Track loans and related costs (interest, fees) that you take as a result of the business slowdown or increased cost of doing business
- Track the costs of cancelling events, supply chain delays, etc.
- Track the costs of additional advertising or marketing that you do to replace the revenue you're losing because of the crisis
- Track the cost of setting up any new products and services you create to replace the products and services you can no longer provide as a result of the crisis
- Collect monthly profit and loss statements for the two year period before, and continue until your business is recovered, for comparison purposes
- Collect forecasts and budgets you prepared before the COVID-19 crisis began, and revised forecasts and budgets prepared after it started, for comparison purposes

- Collect federal and state annual tax returns, financial statements and general ledgers for the past five years.
- Collect payroll records, inventory reports, invoices and purchase orders for the two years before and continuing until recovery

If you have a business interruption policy, notify the carrier that you're incurring losses to protect your rights when you have all the information. There may be interim benefits you're entitled to collect. Even if the carrier denies the claim, you will have created a record in case the law changes or a governmental entity wants proof that you were turned down by your carrier before they'll provide any benefits.