

Small Business Assistance Options Available under the CARES Act

For our small business clients that are struggling to stay afloat amidst this crisis, below are three options available under the CARES Act.

CLIENTS WITH CURRENT SBA 7A OR 504 LOANS

Through this stimulus package and other measures, the federal government has released over \$17 billion to the SBA in an effort to fund deferments on existing SBA 7A or 504 Loans. Talk directly to your lenders. We have several clients who received commitments to 3-6 month deferment within minutes of making the request.

NEW LOANS

\$350 Billion of the funds in the new stimulus package are dedicated to the SBA to provide new loans to qualifying small businesses. There are two different types of loans, Payroll Protection Loans and Emergency Economic Injury Disaster Loans. Many normal SBA restrictions have been waived in an effort to expedite the flow of money to those who need it due to the imminent nature of this crisis. These are either no collateral or limited collateral loans with no SBA or personal guarantees required. Nonprofits, self-employed individuals, and independent contractors are eligible. In many cases, the requirement to provide tax transcripts has been waived to avoid delays in processing.

While a business can apply for both types of loans, it cannot receive both loans and will have to choose between the two products.

PAYROLL PROTECTION PROGRAM

The Payroll Protection Program is a new loan product created by the CARES Act. The primary goal of these loans is to keep small businesses (with 500 or less employees) from laying off workers. These are low interest loans with a streamlined application process. The borrower is not required to provide the standard Borrower Guaranty to the SBA. No personal guaranty to the SBA or local bank is required, and there is no collateral requirement. The maximum Payroll Protection Program loan amount is \$10 million, which will be at the standard 7A rate with flexible payment terms, a maximum interest rate of 4% and a maximum ten-year term.

These loans are forgiven (and excluded from gross income) in an amount (not to exceed the principal amount of the loan) equal to payments made to cover the following costs during the eight-week period following the date of the loan, as long as the business was obligated to pay these costs prior to February 15, 2020:

- Payroll costs;
- Interest payments on mortgages;
- Rent; and
- Utility payments.

Forgiveness amounts will be reduced for any employee cuts or reductions in wages in accordance with the following formula:

1. The maximum available forgiveness under the rules multiplied by:
2. Average number of full-time equivalent employees (FTEEs) per month¹ divided by:

Either (at election of the borrower) –

- Average number of FTEEs per month employed from February 15, 2019 to June 30, 2019; or
- Average number of FTEEs per month employed from January 1, 2020 until February 29, 2020.

Principal and interest is deferred for up to a year. The SBA is waiving all borrower fees, and thus these will essentially be no fee loans. These loans will be 100% backed by the federal government, and in an effort to ensure that banks release funds, despite not receiving borrower fees, the SBA will still be paying lender fees. The CARES Act waives affiliation rules for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company program. To be eligible for a loan, the business needs to have operated and had 500 or fewer employees during the covered period, which is February 15, 2020, to, through and including June 30, 2020.

We expect the SBA to roll out its formal guidance and begin working with lenders to release funds to borrowers in the coming days.

EMERGENCY ECONOMIC INJURY DISASTER LOAN (EIDL)

EIDL has been a product that the SBA has offered for some time in areas hard hit by physical disasters such as hurricanes, tornados, and earthquakes. Under the CARES Act the program has been expanded to combat a viral outbreak. In response to the COVID-19 crisis, the SBA administrator has declared all 50 states and all US territories disaster areas for purposes of EIDL. Thus all small businesses across the country can apply for these emergency loans. Under this program, a business can get a loan up to \$2 million directly from the SBA (unlike other SBA loans, you do not go through your local bank for these loans). EIDLs are available up to \$2 million and carry interest rates up to 3.75 percent for companies and up to 2.75 percent for nonprofits. Payments of principal and interest are automatically deferred for a year from the execution of the Promissory Note, and borrowers could be eligible for deferment for up to 4 years under certain conditions. The loans may be used to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses. For loans under \$500k, the application process will be even more streamlined so that the funds can be released very quickly. The CARES Act permits eligible borrowers to receive an advance of \$10,000

¹ FFE is calculated under the CARES ACT as the average number of FTEEs for each pay period falling within a month – during the covered period.

within three days of applying for the loan to respond to the immediacy of certain economic situations. Under all circumstance the \$10,000 advance will not need to be repaid..

If a borrower is interested in applying for an EIDL loan, it should submit an application ([available on the SBA website](#)) as promptly as possible, because the SBA has already seen a strong uptick in applications and the quicker you apply, the quicker a company can receive funding.

While times are tough, your clients should know there are options out there. This is a fast changing and fluid situation that we at Eckert Seamans are monitoring. Please call any of us for assistance and guidance in these turbulent times.



This COVID-19 Legal Update is intended to keep readers current on developments in the law. It is not intended to be legal advice. If you have any questions, please author Daniel A. Glass at 202.659.6651 or dglass@eckertseamans.com, or any attorney at Eckert Seamans with whom you have been working.