

## **Navigating COVID-19: A Quick Reference Guide for Businesses**

As businesses struggle in the wake of the COVID-19 pandemic, we've compiled a list of available resources to help guide small business owners during these uncertain times.

### **Paycheck Protection Program (PPP)**

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a recently-adopted federal law intended to provide emergency relief for small- and medium-sized businesses facing disruption because of COVID-19. One part of the CARES Act that may be helpful for small- and medium-sized businesses and 501(c)(3) nonprofits is the Paycheck Protection Program (PPP) which provides loans to such businesses.
- Small- and medium-sized businesses with less than 500 employees are eligible for PPP loans. Please review this [resource](#) from the Small Business Administration (SBA) for more details if you believe your business may be too large to be eligible.
- The PPP provides loans to cover the following:
  - Payroll costs.
  - Utilities.
  - Mortgage interest.
  - Rent or lease payments.
  - Group healthcare benefits.
  - Interest on existing debt.
- Based on Department of Treasury guidance issued on March 31, 2020, and based on the Interim Final Rule issues by the SBA on April 2, 2020, the PPP loans provide:
  - 1.00 percent fixed interest rate.
  - All payments are deferred for six months; however, interest will continue to accrue over this period.
  - Loans are due two years after disbursement.
  - There are no prepayment penalties or fees.
  - No collateral is required.
  - No personal guarantee is required.
- Generally, the loan amounts will be forgiven as long as:

- The loan proceeds are used to cover payroll costs, mortgage interest, rent, and utility costs over the eight week period after the origination of the loan.
- Employee and compensation levels are maintained during the eight week period after the origination of the loan.
- Loan forgiveness is calculated based on the sum of amounts paid in the eight weeks following loan origination for payroll, mortgage interest, rent, and utilities. Borrowers must submit an application to their lender for loan forgiveness, but the maximum amount of forgiveness will be reduced proportionally to reflect any reduction in the number of employees or salaries during the emergency period, if any employee or salary reduction occurred during that period.
- At least 75 percent of PPP loan proceeds must be used to cover payroll costs.
- Unlike EIDL loans which are issued by the SBA (described below), PPP loans are authorized by the SBA but issued by a private lender.
- Maximum loan size for PPP loans are up to 2.5 times the average monthly payroll costs over the prior 12 months and may not exceed \$10 million.
- Payroll costs used to calculate PPP loan amounts and forgiveness exclude individual compensation in excess of \$1000,000 per year.
- Businesses and nonprofits seeking to apply must have been impacted by COVID-19 between February 15, 2020 and June 30, 2020.
- Loans will be available through June 30, 2020 but funding limitations may mean that entities applying later in the eligible period may be less likely to receive funding.
- Please note: if your business receives a PPP loan the business is not eligible for the employee retention credit or the payroll tax deferral mentioned below.
- How to apply:
  - Starting April 3, 2020, businesses can apply for and receive loans through existing SBA lenders. Other lenders may be added to the program.
  - On March 31, 2020, the Department of Treasury released the [form of the PPP application](#). Note that lenders may produce their own forms and also require more information to be submitted than as noted in the PPP application mentioned above.
  - SBA-approved lenders in your area can be found [here](#).
  - While each SBA-approved lender may have different required documents to apply, some lenders have indicated that the following will be required:

- 2019 IRS Quarterly 940, 941 or 944 payroll tax reports.
- Last 12 months of payroll reports beginning with the business' last payroll date and going backwards 12 months.
- Documentation showing health insurance premiums paid by the business owner under a group health plan.
- Please confirm with your lender other documents that will be necessary for their individual PPP application.
- More information about the PPP can be found [here](#).
- Please note: if your business received an EIDL loan (described below) related to your business' COVID-19 economic situation between January 31, 2020 and the date at which the PPP loan becomes available, you will be able to refinance the EIDL into the PPP, which is especially helpful for loan forgiveness purposes since PPP loans have forgiveness provisions and EIDL loans do not. However, your business may not take out an EIDL and a PPP loan for the same purposes or to cover the same costs, including payroll.

### **Employee Retention Credit (ERC)**

- The CARES Act also includes a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the period covered by the CARES Act.
- Eligible employers include:
  - An employer whose business is fully or partially suspended during the covered period due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings due to COVID-19.
  - An employer that experiences a 50 percent decline in gross receipts for the calendar quarter compared to the same quarter in the prior year.
- Eligible employers are granted a credit against employment taxes equal to 50 percent of qualified wages paid to employees who are not working due to the employer's suspension of business or a significant decline in gross receipts. The credit can be claimed on a quarterly basis, but the amount of wages, including health benefits, for which the credit can be claimed is limited to \$10,000 in aggregate per employee for all quarters.
- The credit only applies to qualified wages paid between March 12, 2020 and January 1, 2021. If the employer has more than 100 full-time employees, qualified wages are wages paid to employees who cannot work during the COVID-19 pandemic. If the employer has 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

- Note: these credits may not be taken if the business obtains a loan under the PPP loan program mentioned above.

### **Payroll Tax Deferral**

- Section 2302 of the CARES Act allows employers to delay payment of payroll taxes (6.2 percent share of Social Security taxes) from March 27, 2020 to December 31, 2020.
- 50 percent of the deferred tax amounts must be paid by December 31, 2021 and the remaining portion must be paid by December 31, 2022.
- Note: businesses that receive loan forgiveness on PPP loans are not eligible for this payroll tax deferral.

### **SBA Disaster Loan Assistance - Economic Injury Disaster Loans (EIDL)**

- Once a state governor declares a state of emergency due to COVID-19, small businesses may be able to apply for federal SBA loans.
- One option, other than the PPP loan detailed above, for businesses dealing with shortfalls due to COVID-19, are EIDL loans.
- EIDL loans may be used to pay fixed debts, payroll, accounts payable, and other operating expenses that can't be paid because of the impact of the pandemic. EIDLs provide the necessary working capital to help small businesses survive until normal operations resume after a disaster.
- The maximum unsecured EIDL loan is \$25,000. EIDL loans greater than \$25,000 require collateral in the form of a lien against the assets of the business applying and the SBA has stated that it will take real estate as collateral when available. A personal guarantee from owners of 20 percent of the business, managing members of LLCs, and managing partners of LPs is required for EIDL loans larger than \$200,000.
- EIDL loan amounts and use:
  - Substantial economic injury means the business is unable to meet its obligations and to pay its ordinary and necessary operating expenses.
  - The SBA can provide up to \$2 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred. The loan amount is based on your actual economic injury and your company's financial needs, regardless of whether the business suffered any property damage.
  - Eligibility and terms:

- The interest rate on EIDLs will not exceed 4 percent per year. The term of these loans will not exceed 30 years. The repayment term will be determined by the business's ability to repay the loan.
- How to apply:
  - [Apply online for an SBA disaster assistance loan.](#)
  - Submit the completed loan application and a signed and dated [IRS Form 4506-T](#) giving permission for the IRS to provide SBA your tax return information.
  - Please see this [fact sheet from the SBA](#) with additional information.
  - For additional information, please contact the SBA disaster assistance customer service center. Call 1-800-659-2955 (TTY: 1-800-877-8339) or e-mail [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).
- EIDL approval timeline:
  - At this time the loan process may take a few weeks.
  - Applicants are encouraged to apply as soon as possible given the possibility that loan funding may be limited.
  - SBA hopes that most applicants will at least hear about approval or disapproval within 36 hours.
  - Emergency grants of no more than \$10,000 may be distributed within three days of a business submitting an application. The application for the emergency grant can be found [here](#). Further, if your loan is not approved, you may be able to keep the emergency grant.
  - Once the executed Loan Closing Documents are received, an initial disbursement \$25,000 for working capital due to an economic injury may be made within five days.
  - Applicants have nine months to file for an EIDL from the date of the disaster declaration in their state or area of business.

For additional information:

- [SBA Disaster Loan Reference Guide.](#)
- [This fact sheet specifically about the EIDL program.](#)
- More information on the [SBA disaster assistance and EIDL loans here.](#)

- Please note: if your business received an EIDL loan related to your business' COVID-19 economic situation between January 31, 2020 and the date at which the PPP loan becomes available, you will be able to refinance the EIDL into the PPP, which is especially helpful for loan forgiveness purposes since PPP loans have forgiveness provisions and EIDL loans do not. However, your business may not take out an EIDL and a PPP loan for the same purposes or to cover the same costs, including payroll.

## **Additional Guidance**

- Consider reaching out to creditors. Businesses may ask their creditors for forbearance/extended repayment terms on existing loans and other obligations and some lending institutions have generally agreed to give across the board forbearance terms.
- Review insurance policies for [Business Interruption coverage](#).
- Businesses should gather, among others, the following documents and information, some or all of which will be needed when applying for a loan, grant or other form of assistance:
  - Receipts related to COVID-19 spending.
  - Payroll information.
  - Details on laid off or furloughed staff.
  - Debt service payments.
  - Mortgage/lease and utility payments.
  - Workers' compensation claims.
  - Signed tax return.
  - Financial statements.
- Internal Revenue Service (IRS) tax filing delay:
  - The IRS has delayed the [deadline for all tax filers to July 15](#).
  - More information can be found here: <https://www.irs.gov/coronavirus>
- State departments of revenue:
  - Individual state departments of revenue may have extended the tax filing deadline for individuals and businesses due to or in sync with the IRS. Check with the state(s) where your business pays business, corporate, real estate, etc. tax to determine if this is relevant to your business.

- State and local governments:
  - Many state and local governments have enacted small business relief programs, including loans, grants, and tax relief. Consult the localities where you conduct business for more information.
- Other resources:
  - The US Chamber of Commerce – “[Coronavirus Aid, Relief, and Economic Security Act: What Small Businesses Need to Know](#).”
  - State chambers of commerce may provide assistance or guidance for state specific programs – contact them individually.
  - [Facebook Small Business Grant Program](#).

*For more cutting-edge perspectives on the legal and business implications of COVID-19, please contact Anthony (T.J.) Andrisano at [anthony.andrisano@bipc.com](mailto:anthony.andrisano@bipc.com) or 717-602-4764.*