

CARES ACT - EMERGENCY RESPONSE BILL FOR COVID-19

I. Paycheck Protection Program

SUMMARY

- Establishes funding for forgivable bridge loans in an amount generally equal to 2.5 times the business's monthly payroll costs. The loan amount can be increased to refinance an economic injury disaster loan that was made during Jan. 31, 2020 and the date of the Paycheck Protection Program loan. The loans are capped at \$10 million per business.
- A business can request loan forgiveness in an amount that does not to exceed the (i) sum of payroll costs, (ii) interest on mortgages (this excludes prepayments and payment of principal), and (iii) rents and utilities incurred prior to Feb. 15, 2020 and continuing during the 8 weeks beginning on the date when the loan was made (the "covered period"). In addition, the SBA has set the interest rate at 1%, and lenders must provide payment deferral for at least six months but no more than a year.
- The forgivable amount will be reduced by (a) the percentage of full time employees laid off and (b) the amount each employee's salary or wages that is reduced by more than 25% during the covered period as compared to before the covered period. But the reduction will not be applied if employees are rehired and salaries are restored to the prior amounts by June 30, 2020.
- Businesses may use loan funds to pay interest on mortgages, rent, utilities, employee salaries, payroll costs (such as wages, family, parental, medical or sick leave), continued group healthcare benefits and interest on debt incurred before February 15, 2020.

ELIGIBILITY

- Businesses with 500 or fewer employees, among other types of small businesses.
- Businesses in the accommodation and food industries are eligible so long as they don't have more than 500 employees at a particular physical location.
- A business must certify that (a) the loan is needed for ongoing operations due to the volatility of present economic conditions, (b) the loan will be used to keep employees and maintain payroll or to pay mortgages, leases, and utilities, (c) the business doesn't have an application for another similar SBA loan and the business has not received this loan during the period of Feb. 15, 2020 until the end of 2020.

HOW TO APPLY

- SBA has 15 days from the date of enactment to adopt implementing regulations.
- The loans will be available from the date of enactment of the Act until June 30, 2020.
- The Act waives certain SBA lending requirements such as the requirements for collateral, personal guarantee, and that credit be unavailable elsewhere.

- To receive the loan forgiveness, businesses must submit an application to the lender servicing the loan. The application must be accompanied by documentation demonstrating the number of full time equivalent employees on payroll and the pay rate. Another requirement is a certification that the forgiveness will be used to keep employees and pay interest for mortgages, or to make lease and utility payments. Decisions on these applications may take up to 60 days and after the decision is given, it may take up to 90 days for lender to receive funds from the SBA.
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II. Economic Injury Disaster Loan and Loan Advance

SUMMARY

- Provides economic-injury disaster loans for small businesses. A business can also apply for up to \$10,000 as an advance on the loan application and will not be required to pay it back.
- The proceeds can be used for paid sick leave, payroll, increased costs due to supply chain disruptions, rent or mortgage payments as well as any other costs that cannot be covered due to decreased revenue.

ELIGIBILITY

- Businesses with 500 or fewer employees as well as other types of small businesses.
- The business must have been in operation on Jan. 31, 2020.

HOW TO APPLY

- To apply for the Disaster Loan and loan advance, the SBA has created an application available [here](#).
- The application will include a certification that the applicant is an eligible applicant for the loan.
- The Act waives the SBA requirements such as a personal guarantee, a one-year operating history prior to the date of the disaster event, and the unavailability of credit elsewhere.

III. Emergency Economic Injury Disaster Loan Grants

SUMMARY

- SBA will cover the principal, interest, and associated fees that are owed on eligible loans for a period of 6 months. The eligible loans include Section 7(a) of the Small Business Act, Title V of the Small Business Investment Act or loans made by an intermediary to a small business using loans or grants received under section 7(m) of the Small Business Act. The Paycheck Protection Program loans are excluded from this coverage.

- Lenders will also be discouraged from raising reserves for these loans, to waive statutory limits on maximum loan maturities, and to extend lender-site visit requirements by 60 days after an adverse event or 90 days after a payment default.

IV. Other CARES Act Information

- There is \$275 million available to other programs related to small businesses such as grants for education, training and advising related to COVID-19 issues.
- 50% of Social Security payroll tax payments from the date of enactment until Jan. 1, 2021 will be deferred until Dec. 31, 2021. The balance will be due on Dec. 31, 2022.
- Employers affected by COVID-19 due to governmental mandated suspension of operation or those who have a decrease in revenue of 50% or more compared to the same calendar quarter of the prior year can receive a quarterly credit against the employer portion of Social Security taxes equal to 50% of employee wages of up to \$10,000 per employee. In addition, the credit is refundable to the employer to the extent it exceeds total Social Security payroll taxes that would have been payable in the quarter. This excludes employers who receive 7(a) loans related to COVID-19.
- There is also a five-year carryback that will allow taxpayers to convert tax losses arising in 2018-2020 into cash refunds rather than carryforwards into later years.

ADDITIONAL RESOURCES FOR SMALL BUSINESSES

- **Federal Government Financial Resources:**
 - [Small Business Administration Programs](#)
 - [Internal Revenue Service Programs](#)
 - [Click here to apply to grants provided by federal agencies.](#)
- **State and Local Government Resources:**
 - [Financial Resources](#)
 - [Informational Resources](#)
- **[Non-Government Financial Resources](#)**

These are the opinions of the author, not HCMP. Statements here do not represent specific legal advice. Contact the appropriate lawyers at HCMP if we can be of legal assistance.

Please do not hesitate to reach out to us with questions, and we hope that this memorandum will be of help in your business pursuits in Washington.

Best regards,



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