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CARES Act

The CARES Act, which was passed on Friday March 27, 2020, and signed into law over the weekend, expands the economic relief options available to small businesses and employers. Highlights of the new Payroll Protection Program (“PPP”) and updates to the SBA Economic Injury Disaster Loans (“EIDL”) are summarized below. Funding for these small business loans is expected to be made available starting on Friday, April 3rd. Detailed instructions on how to apply for a PPP loan is expected to be available on the SBA website by Monday, April 6th. EIDL Loans may be applied for through the SBA website:

<https://covid19relief.sba.gov/#/>.

You can apply for PPP loans through a lender that is already authorized to offer SBA 7(a) or Express loans. However, the SBA will soon release more details, including a list of lenders offering PPP loans. In the meantime, reach out to your local lender to see if your lender is offering PPP loans. It is also wise to start documenting your expenses and otherwise getting prepared for the application process so that you can apply as soon as further guidance is released. Resources and guidance from the SBA can be found at this link:

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

Overview of Payroll Protection Program Created by the CARES Act:

- PPM designed to provide small businesses (generally under 500 employees) with loans to cover payroll costs (salaries, wages, leave, health insurance, retirement, state and local tax assessed on employee comp for employees with compensation under \$100K and rent payments) and other eligible costs
- Potential forgiveness of a portion of the loan, which includes up to 8 weeks of payments for payroll costs (salaries, wages, leave, health insurance, retirement, state and local tax assessed on employee comp for employees with compensation under \$100K and rent payments)
 - Applicable period for 8 weeks is February 15, 2020 to June 30, 2020
- Loan is not dependent on other credit facilities
- Businesses need to attest the following:
 - Company is economically impacted by COVID-19

-Funds will be used to retain workers and pay rent

PPP Primary Loan Terms:

- No cost to apply
- No personal guaranty
- No collateral
- Term of up to 10 years
- No payments for initial 6 months
- Max interest rate is 4%
- Max loan amount = 2.5 X the average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019 (generally, other look back periods may apply) and ending on June 30, 2019

-This guide from the U.S. Chamber of Commerce can help you determine how much you may be eligible for:

https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_final.pdf

Conditions for Loan Forgiveness:

- Document payroll, health insurance payments and rent payments for prior 12 months for comparison
- Retain employees and pay rent for the next 8 weeks
 - If you do not fully retain employees there is a proportional reduction in forgiveness
 - Provide documentation evidencing you retained employees and paid rent (payroll filings with IRS and state and proof of lease and health insurance payments)
 - Certification by owners
- Lender has 60 days to approve or deny forgiveness after submission
- Any amount forgiven is non-taxable

CARES Act impact on EIDL Loans:

- **Emergency Grant: Applicants may request a maximum advance of \$10,000 to access a quick infusion of a smaller amount of cash immediately**
 - If the applicant is subsequently denied an EIDL Loan the advance may not need to be paid back
 - Self Certification required under penalty of perjury
- Waives rules related to personal guarantees on advances and loans of not more than \$200,000 during the covered period
- Waives the credit available elsewhere requirement
- No loan forgiveness
- If the applicant applied for an EIDL loan for purposes of paying costs not described in the PPM, the applicant may also apply for a PPM loan.

Eligible “Small Employer”: Businesses applying for an EIDL or the PPP generally are eligible if they have fewer than 500 employees. Businesses in certain industries may have more than 500 employees if they meet the SBA’s size standards for those industries. The measurement of employees generally includes all of an entity’s domestic and foreign affiliates. 13 CFR 121.103(a)(6). There are certain exceptions to the affiliation rules set forth in the CARES Act for businesses assigned a North American Industry Classification Code (NAICS) beginning with 72 (accommodation and food service) and for certain franchises. Contact your Crowley Fleck attorney if you have questions regarding the affiliation rules.

Guidance from the SBA is ongoing and likely to evolve, so please contact your local SBA representative or your contact at Crowley Fleck for the most up to date information. We are available to answer any questions

or help our clients and neighbors in any way we can in these challenging times.

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