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How to Make Sense of the COVID-19 SBA Loan Opportunities

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Presenters



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- MCM is a large regional CPA and advisory firm employing more than 350, including more than 160 CPAs. We serve both privately and publicly held businesses, non-profit organizations, small businesses and individuals

- **Mission:** We exist to help both our clients and team succeed.

Core Values



People Matter - We genuinely care about our people, personally and professionally, and ensure relevance in their work.



Leaders Inspire - We inspire each other to sustain our vision and advance our mission as a firm.



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Introduction

- Virtually every business and non profit is looking for ways to ease the financial burden of COVID-19
- Congress and the SBA have initiated two primary loan programs to help small businesses
 - The Economic Injury Disaster Loans (EIDL) and/or
 - The newly enhanced SBA 7A loans now known as “Paycheck Protection Loans”



SBA 7A Program

Small Business Administration 7A

“Paycheck Protection Loans”

updated with March 31, 2020 SBA Guidance

Who is Eligible?

- Small businesses – generally defined as less than 500 employees
- Sole proprietors, independent contractors, self-employed individuals (as defined in Congress’s last COVID-19 bill, the Families First ACT)
- Nonprofit organizations – 501(c)3 only
- Veteran’s organizations
- Hospitality and Dining Industries Special Eligibility Rule: Hospitality and dining businesses are eligible to receive a loan if the business has more than one physical location, employs less than 500 employees per location, and is assigned to the “accommodation and food services” sector (Sector 72) under the North American Industry Classification System (NAICS).

How much can be borrowed?

- You can borrow the lesser of:
 - The average monthly “payroll costs” for the 1-year period ending on the date the loan was made (an alternative calculation is available for seasonal employers) multiplied by 2.5;
 - Plus the outstanding amount of a loan made under the SBA’s Economic Injury Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced as part of this new program;

or

- \$10 million.



What are the requirements for use of funds?

- The loan is needed to continue operations during the COVID-19 emergency;
- Funds will be used to retain workers and maintain payroll or make mortgage, lease, and utility payments;
- The applicant does not have any other application pending under this program for the same purpose; and
- From February 15, 2020 until December 31, 2020, the applicant has not received duplicative amounts under this program.

What is included in Payroll Costs?

- Wages, commissions, salary, or similar compensation to an employee,
- Compensation of a sole proprietor or independent contractor that is self employment income,
- Payment of a cash tip or equivalent,
- Payment for vacation, parental, family, medical or sick leave,
- Allowance for dismissal or separation,
- Payment for group health care benefits, including premiums,
- Payment of any retirement benefits, and
- Payment of state or local tax assessed on the compensation of employees.



What is not included in Payroll Costs?

- The compensation of any individual employee or self employed individual in excess of an annual amount of \$100,000,
- Payroll taxes, now defined as payroll withholdings
- Any compensation of an employee whose principal place of residence is outside the U.S., or
- Any qualified sick leave or family medical leave for which a credit is allowed under the new Coronavirus Relief Act passed last week.

What are the terms of the these loans?

- The loans will have a maximum maturity of 10 years and an interest rate not to exceed 4%. **Per SBA maturity is 2 years and interest is set at .5%.**
- Proceeds may be used to cover payroll, mortgage interest payments, rent, utilities, and any other debt service interest requirements.
- The standard fees imposed under Section 7 of the Small Business Act are waived, and no personal guarantee is required by the business owner.

Other Questions

- **Is it possible to defer payments under the loan?**
 - An additional provision in the CARES Act provides for possible deferment of repayment of the loans for a period of at least six months, but not to exceed a year.
- **How do the Loan Forgiveness Provisions of Paycheck Protection Loans work?**
 - A separate section of the CARES Act calls for a portion of the aforementioned paycheck protection loans to be forgiven on a tax-free basis.
- **Who Qualifies for Loan Forgiveness?**
 - To seek forgiveness, a borrower must submit to the lender an application that includes documentation verifying the number of employees and pay rates, and cancelled checks showing mortgage, rent, or utility payments for the 8 week period starting with the date of the loan.



Other Questions cont.

- **How much can be forgiven?**

- The amount to be forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan (see reductions/limitations in next slides):
 - Payroll costs (as defined in the Payroll Costs section above)
 - Mortgage interest
 - Rent for leases in effect prior to February 15, 2020
 - Certain utility payments

Per the SBA, due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.



Other Questions cont.

- **By what amount can the forgiveness be potentially reduced?**

- There is a provision that reduces the amount that may be forgiven if the employer either:
 - Reduces its workforce during the 8-week covered period when compared to other prescribed periods in either 2019 or 2020, or
 - Reduces the salary or wages paid to an employee who had earned less than \$100,000 in annualized salary by more than 25% during the covered period.
- This reduction can be avoided, however, if the employer rehires or increases the employee's pay within an allotted time period.

- **Do I have to include in income the amount of forgiveness?**

- Forgiveness amounts that would otherwise be includible in gross income, for federal income tax purposes, are excluded.



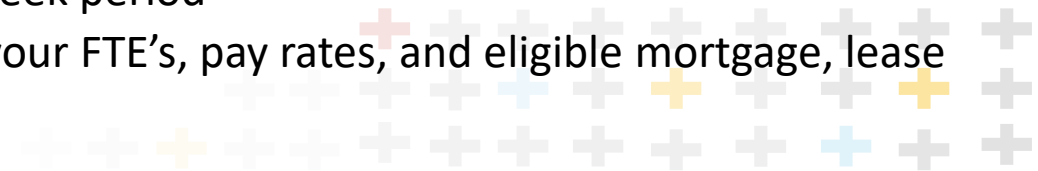
How do I apply?

- These SBA loans are typically applied for thru an SBA lender. The SBA is currently working thru details to allow more lenders to be able to provide these loans. Check with your existing financial institution or reach out to us and we can assist connecting you with an SBA lender.
- Items needed to apply: The SBA **has created a new form 2483 Payroll Protection Program Application Form which includes eligibility and certification of the borrower.**
- **The banks will be requiring documentation to support the numbers on the form. Each bank may require slightly different documentation.**



Other Application Questions

- When can I apply?
 - April 3, 2020 – small businesses and sole proprietorships can apply
 - April 10, 2020 – independent contractors and self-employed individuals can apply for and receive loans
- You will need to provide to your lender:
 - Completed application with amounts and information regarding ownership
 - Required documentation
 - Certification of your compliance with 7 key factors
- When do I request loan forgiveness?
 - You will submit a request to your lender after the 8 week period
 - You will need to submit documentation that verifies your FTE's, pay rates, and eligible mortgage, lease and utility payments



Paycheck Protection Program Form



Paycheck Protection Program Application Form

OMB Control No.: 3245-
Expiration Date: 06/30/2020

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>		DBA or Tradename if applicable	
Business Legal Name			
Business Primary Address		Business TIN (EIN,SSN)	Business Phone () -
		Primary Contact	Email Address

Average Monthly Payroll:	\$	X 2.5 equals Loan Amount:	\$	Number of Jobs:	
Purpose of the loan (select more than one):					
<input type="checkbox"/> Payroll <input type="checkbox"/> Rent / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):					

Applicant Ownership

List all owners of Applicant with greater than 20% ownership stakes. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN,SSN)	Address

How Will Banks Respond?



SBA EIDL Program

Small Business Administration
Economic Injury Disaster Loan Program

Eligibility

- Small businesses and Not-for-Profit organizations who have suffered economically as a result of the coronavirus pandemic.
- The Economic Injury Disaster Loan is currently eligible for the January 31, 2020 – December 31, 2020 covered period.
- Small business is defined based on SBA guidelines for revenue specific to your NAICS code and having less than 500 employees



Who can apply for an EIDL?

- Small businesses with a maximum of 500 employees, including but not limited to restaurants, retailers, gift shops, motels and hotels, service-based companies, recreational facilities, charter boats, manufacturers, sports vendors, owners of rental property, travel agencies and wholesalers
- Cooperatives with a maximum of 500 employees
- ESOPs with a maximum of 500 employees
- Most not-for-profit organizations, including but not limited to nursing homes, food kitchens, museums, educational facilities, senior citizen centers, childcare centers, playhouses, community centers, shelters, and rescue organizations
- Tribal small business concerns



Who can apply for an EIDL?

- **This includes:**
 - Businesses directly affected by the disaster
 - Businesses that offer services directly related to the businesses in the declaration
 - Other businesses indirectly related to the industry that are likely to be harmed by losses in their community
- **Note:** Some agricultural enterprises, religious organizations, some charitable organizations, gambling concerns, real estate developers and casinos/racetracks are ineligible for an Economic Injury Disaster Loan.



Loan approval criteria

- **Credit history:** Applicants must have a credit history deemed acceptable to SBA.
- **Repayment:** SBA must determine that the applicant business has the ability to repay the loan.
- **Eligibility:** Business must have been operating on January 31, 2020. The CARES Act waives the normal one year in business requirement.



Other Questions

- **How much can be borrowed?**
 - Eligible entities may qualify to borrow up to \$2 million.
 - Interest rates: 3.75% for small businesses, 2.75% for not-for-profit organizations, with terms up to 30 years and a fixed rate.
- **How can the loan be used?**
 - Paying fixed debts.
 - Payroll and accounts payable.
 - Other bills that could have been paid if the disaster had not occurred.
 - Note: The loans cannot be used to replace lost sales, lost profits, or for expansion.



Other Questions

- **What are the collateral requirements?**
 - Loans over \$25,000 require collateral.
 - SBA takes real estate as collateral when it is available.
 - SBA will not decline a loan for lack of collateral but requires borrowers to pledge what is available.



How do I apply?

- The free electronic application can be found through the SBA's Disaster Assistance Program at sba.gov.
- To apply, you will need the completed SBA loan application: SBA Form 5, IRS Form 4506T, Copies of the most recent Federal Income Tax Return, SBA Form 2202, and SBA Form 413.
- Lots of issues are occurring with the website. Be prepared for frustrations.



What changes did the CARES Act make in the EIDL program?

- The CARES Act would deem all states and their subdivisions to have sufficient economic damage to small business concerns to qualify for assistance under this loan program .
- The CARES Act makes the following additional changes to the SBA Disaster Loan program during the covered period for loans made in response to COVID-19:
 - Waives rules related to personal guarantees on advances and loans of \$200,000 or less for all applicants;
 - Waives the “1 year in business prior to the disaster” requirement (except the business must have been in operation on January 31, 2020);
 - Waives the requirement that an applicant be unable to find credit elsewhere; and
 - Allows lenders to approve applicants based solely on credit scores (no tax return submission required) or “alternative appropriate methods to determine an applicant’s ability to repay.”



What are the provisions related to emergency advances under the program?

Entities applying for loans under the Disaster Loan Program in response to COVID-19 may, during the covered period, request an **emergency advance** from the Administrator:

- Amounts up to \$10,000
- Does not have to be repaid, even if the loan application is later denied.
- The Administrator is charged with verifying an applicant's eligibility by accepting a "self-certification."
- Advances are to be awarded within three days of an application.



How can Economic Injury Disaster Loan Program advances be used?

- Advances may be used for purposes already authorized under the SBA Disaster Loan Program, including:
 - Providing sick leave to employees unable to work due to direct effect of COVID-19;
 - Maintaining payroll during business disruptions during slowdowns;
 - Meeting increased supply chain costs;
 - Making rent or mortgage payments; and
 - Repaying debts that cannot be paid due to lost revenue.
- If an entity that receives an emergency advance transfers into, or is approved for, a loan under the SBA Paycheck Protection Loan Program (described in the section above), the advance amount will be reduced from any payroll cost forgiveness amounts.





COMPARISON: 7A Payroll Forgiveness Loan & EIDL

General Provisions	SBA 7A Payroll Forgiveness Loan	SBA Economic Injury Disaster Loan
Qualified Business	Up to 500 employees including full and part time	Based on SBA guidelines for NAISC codes related to number of employees and revenue limits
Amounts Available	2.5 times average monthly payroll up to \$10MM	Up to \$2MM; Amount based on SBA Calculation
Interest Rate	Up to 4% - now .5%	3.75% For Profit; 2.75% Non Profit
Collateral	None required	None for loans <\$25000; required for loans in excess with focus on real estate
Guaranty	None required	Not required for loans less than \$200,000
Repayment	Payments deferred for 6-12 months and then portion forgiven; 10 year term thereafter; now 2 years	Payments deferred for 12 months; Amortized principal and interest over up to 30 years
Affiliate Rules	Common control rules apply; hospitality exception	Common control rules apply
Loan Process	One time ask through SBA Lender; funds are limited	May apply multiple times based on need through December 31, 2020



Case Study

Case Study #1: Sally's Beauty Shop

- DETAILS

- Sally's Beauty Shop applies for a paycheck protection loan on May 1, 2020.
- The business had \$1.2 million in payroll costs for the period May 1, 2019 through May 1, 2020, for a monthly average of \$100,000.

- Eligibility

- Sally's Beauty Shop is entitled to a Paycheck Protection Loan —assuming it's made before December 31, 2020 — equal to the LESSER OF:
 - \$250,000 (\$100,000 in average payroll costs * 2.5), or
 - \$10 million.

- Application

- in the first 8 weeks after the business borrows the \$250,000
 - the business pays \$200,000 in payroll costs, mortgage interest, and utility payments.
- Sally's Beauty Shop is eligible to have \$200,000 of the \$250,000 loan forgiven.
 - The forgiveness will not create taxable income.
- In addition, because of the deferment rules in the CARES Act, any payments due on the remaining \$50,000 will not be due for six months.

FAQs

- **Q: Does payroll include independent contractors which we report on a Form 1099?**
 - A: Depends on who you ask; guidance will be forthcoming.
- **Q: Do we exclude or include employees who make in excess of \$100,000?**
 - A: You include up to \$100,000 but exclude anything over that.
- **Q: If you layoff 2 people out of 10 total, do you have a 20% reduction in the loan forgiveness?**
 - A: Yes, this part of the rule is based on FTE's.
- **Q: Does having someone refuse to work during this period make a difference in the forgiveness rules?**
 - A: No, there is nothing in the law that gives an exception for the reason for the termination.
- **Q: Does the 25% pay reduction rule apply to each employee individually or is it an overall calculation?**
 - A: It is per employee and applies only to employees making less than \$100,000.



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Final Thoughts

Which loan is best for me?

- If you **DO NOT** have employees, the **SBA EIDL** seems to be the way to go.
 - May be faster to obtain
 - Potentially longer deferral period with a slightly lower interest rate
 - You can receive \$10,000 almost immediately according to the SBA rules
 - Will allow you to remain operational and not fall father behind while the crisis in ongoing.
- If you **DO** have employees, the **SBA 7A Loan** is the most potentially beneficial program
 - First Step → **Contact Your Bank** to see if they are set up to make loans under the program
 - Most banks and credit unions are already set up to do this
 - If there is a seasonal component of your business and you have more employees during certain periods of time, you need to review the rules more closely for a strategy as to when to apply for the loan.



How much can be forgiven?

- The amount to be forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan (see reductions/limitations below):
 - Payroll costs including gross pay and most benefits excluding payroll taxes; gross pay in excess of \$100,000 annualized is excluded.
 - Mortgage interest
 - Rent
 - Certain utility payments
- **Note new SBA limit of no less than 75% of forgiven amount be related to payroll costs.**



What can the forgiveness be reduced by?

- There is a provision that reduces the amount that may be forgiven if the employer either:
 - Reduces its workforce during the 8-week covered period when compared to other periods in either 2019 or 2020, or
 - Reduces the salary or wages paid to an employee who had earned less than \$100,000 in annualized salary by more than 25% during the covered period.
- This reduction can be avoided, however, if the employer rehires or increases the employee's pay within an allotted time period.



Other Insights

- If you qualify as a small business, there is a real incentive to start the process of applying for this SBA 7A Loan. Funds are limited by the law so do not delay.
- Taking this route first will also put you in direct contact with your own banker who can expedite this process on your behalf.
- MCM's role in this process will be to assist you in efficiently providing the information that you need and giving you expert guidance in how much to request to maximize your benefits under the government programs.



Planning Opportunities and Pitfalls

- Deciding when to make the loan effective
- Coordinating planning around the other law provisions recently passed including:
 - Family and medical leave, payroll credits and deferrals, etc.
- Planning for employee terminations, furloughs, rehires, compensation reductions, etc
- Determining the exact amounts included in payroll costs
- Determining who is the filing entity if multiple commonly owned companies are involved
- Determining how to avoid the Loan Forgiveness Reductions



What if your business has more than 500 employees?

500+ employees

- The Treasury Secretary is instructed to “endeavor” to establish a program or facility to aid mid-size businesses and nonprofits with between 500 and 1000 employees.
- Any loans made under such a program would be at an interest rate no higher than 2 percent with no payments due in the first 6 months.
- These mid-sized businesses must make certain certifications regarding workforce retention/pay/benefits, a guarantee not to send jobs offshore, abiding by collective bargaining agreements, and not to interfere with any union organizing effort.



Awaiting Guidance from SBA Lenders – Stay Tuned

Significant Open Unanswered Questions

- Treatment of 1099 Subcontractors or Service Providers – **not included**
- Treatment of Payroll Withholdings – **no reduction prescribed**
- Treatment of Partners – **included as other self employed**
- Common Paymaster Rules related to Inclusion and Filing Responsibility
- Treatment of Temporary Employees under a Third Party Contract Arrangement
- Treatment of terminated employees under the PPP Loans reduction of pay provision and how to mitigate it
- Treatment of 501(c)6 and 7 Organizations in Combination with existing 501(C)3 organizations



MCM's Recommendations for Pro-Forma Calculations

Considerations:

- Law and calculations are complex
- Various inter-relationships between provisions of the laws only recently passed
- Myriad options for employment decisions that should not be taken lightly
- Application process should be coordinated with your planned certification 8 weeks later
- Hurried drafting of bills leaves many items subject to professional judgement

This decision may be one of the most important financial decisions you make during 2020.



Professional Guidance: Here and Now

- **MCM’s professionals are prepared to take the time necessary right now to address your specific situation**
- **Template is ready to go to efficiently produce “what-if” scenarios for your business or organization**
- **Multi-disciplined professionals can address confusing overlap of financing, tax and employment related issues**

Contact us for a call or meeting (virtual preferred of course) to get your process started



Questions?

Please submit questions in Chat Box

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Thank You

for your time!



MCM COVID-19 Resource Center

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