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ALERT

The CARES Act and Small Businesses

On Friday, March 27, 2020, President Trump signed a $2 trillion stimulus package – the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). The purpose of the CARES Act is to assist businesses with immediate needs to allow them to retain their employees and cash flow, among other things.

The Paycheck Protection Program
One of the most significant facets of the CARES Act is the small business loan program - the Paycheck Protection Program ("PPP"). Through the PPP, $350 billion will be distributed to small businesses in the form of loans that may be partially forgiven if the recipient companies meet certain requirements. Generally, in order to be eligible for a PPP loan a business needs to have been in operation on February 15, 2020, be harmed due to COVID-19 between February 15, 2020, and June 30, 2020, and be a small business, i.e., 500 or less employees. Additionally, individuals who operate sole proprietorships or as an independent contractor, as well as self-employed individuals may be eligible.

A PPP loan could forgive up to eight (8) weeks of payroll based on employee retention and salary levels, would have no SBA fees and at least six (6) months of deferral with maximum deferrals of up to one (1) year. PPP loan proceeds may be utilized for: payroll; costs associated with the continuation of group health care benefits during periods of paid sick, medical or family leave, and insurance premiums; employee salaries, commissions or similar compensation; payments of interest on any mortgage obligation; rent; utilities or interest on any debt obligations that were incurred before February 15, 2020.

Employee or owner compensation over $100,000 is not covered by the PPP loan. Additionally, taxes imposed under chapters 21, 22 and 24 of the Internal Revenue Code, compensation of employees whose principal place of residence is outside the United States and qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act ("FFCRA") are not covered.

The size of the PPP loan is determined by when you were in operation. Generally, for businesses in operation between February 15, 2019 and June 30, 2019, the maximum loan is equal to 250% of your average monthly payroll costs during that time period. For businesses not in operation between February 15, 2019 and June 30, 2019, the maximum loan you would be entitled to is equal to 205% of your average monthly payroll costs between January 1, 2020, and February 29, 2020. Businesses that have already taken out, or plan to take out, an Economic Injury Disaster Loan ("EIDL)[1] between February 15, 2020, and June 30, 2020, are able to refinance the EIDL utilizing a PPP loan with the addition of the outstanding loan amount to the payroll sum.

In order to obtain forgiveness of the loan, a business must apply through their lender for loan forgiveness and provide documentation that verifies payroll information, mortgage, lease and/or utility obligations and certifies that the funds are being used in accordance with the PPP. Any amount not forgiven is carried forward with a maximum loan term of ten (10) years, at a maximum interest rate of four percent (4%).

Small Business Debt Relief Program
Another component of the CARES Act is the relief being provided to small businesses with SBA loans. Specifically, 7(a) loans, 504 loans and microloans (collectively, the "SBA Loans"). Under the Small Business Debt Relief Program, the SBA will cover all loan payments on these SBA Loans, including principal, interest and fees, for six (6) months. The same relief is available to borrowers who take out one of the eligible SBA Loans within six (6) months of March 27, 2020.

Economic Injury Disaster Loans & Emergency Economic Injury Grants
As previously stated, EIDL's are lower interest rate loans with loan deferment subject to the discretion of the administrator of the loan. Sole proprietorships, independent contractors, cooperative and employee owned businesses and tribal small businesses with five hundred (500) or fewer employees are eligible.

Emergency Economic Injury Grants provide an advance of up to $10,000 to a small business that has applied for an EIDL. The advance must be specifically requested after you apply for an EIDL and is supposed to be available within three (3) days of request. Small businesses and private non-profits harmed by COVID-19 are eligible for the advance if they have been in operation since January 31, 2020.

The advance does not need to be repaid and may be used for payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations including debts, rent and mortgage payments. Additionally, grants are being backdated to January 31, 2020, in order to allow businesses that have already applied for an EIDL to be eligible to receive a grant.

Can I take advantage of all three?
Application and use of funds from a PPP loan does not preclude a business from obtaining an EIDL or Emergency Economic Injury Grant, nor is a business receiving relief from the Small Business Debt Relief Program precluded from eligibility for a PPP loan. However, there must not be duplication of the use of the funds from each of the programs.

If you have any questions or would like any further clarification on the CARES Act and its impacts, please feel free to reach out to us.

[1] An Economic Injury Disaster Loans are lower interest rate loans of up to $2 million, with principal and interest deferment, that are used for expenses that could have been met had COVID-19 note occurred. These expenses include payroll and other operating expenses.

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