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Qualifying for Business Loans Under the CARES Act

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act was signed into law by President Trump. This unprecedented \$2.2 Trillion stimulus measure is the largest federal aid response in history and is intended to provide relief to the American people and businesses in response to the COVID-19 pandemic. The CARES Act provides financial support at the federal level to businesses, employees, families and certain industries that have been heavily impacted by the COVID-19 pandemic such as airlines and healthcare.

In particular, the CARES Act allots \$10 Billion for Economic Injury Disaster Loans (through the SBA) and \$350 Billion for Paycheck Protection Loans (through local lending institution) to help small business stay afloat during the national crisis. As summarized below, these programs are targeted to help businesses stay afloat and retain employees. The CARES Act expands the eligibility criteria for borrowers to qualify for loans that are traditionally available through the Small Business Administration (“SBA”). Businesses can apply for loans under both programs as long as they have a legitimate basis and use for each loan. (i.e. no double dipping).

Economic Injury Disaster Loan

The SBA loans available under the CARES Act are friendlier more expansive than traditional SBA programs. As a result, many businesses that would normally not be able to avail themselves of the SBA loan programs may now be able to do so. To be eligible for the loan, a business must have been operational as of January 31, 2020. The COVID-19 centric SBA loans offer the following features unique from traditional SBA loans:

- **Terms:** Loans are available in a maximum amount of \$2 Million with an interest rate of 3.75% and a maximum term of 30 years.
- **Expanded Access:** Sole proprietors or independent contractors, as well as tribal businesses, cooperatives, and ESOPs with fewer than 500 employees and all non-profits can apply.
- **Credit Score:** Loans can be approved based solely on an applicant’s credit score and self-certification without taking into account the applicant’s repayment ability or tax returns. For example, an applicant’s prior bankruptcy is not grounds for disqualification from an SBA loan under the CARES Act.
- **Personal Guaranty:** SBA loans in an amount less than \$200,000 can be approved without a personal guaranty. Loans over \$200,000 must be guaranteed by any owner having at 20% ownership interest in the company.



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- **Collateral:** For loans in an amount less than \$200,000, the SBA is not requiring real estate as collateral and will take a general security interest in business property.
- **Cash Advance:** Borrowers can receive \$10,000 in emergency grant cash advances that have the potential to be forgiven if used for paid leave, maintaining payroll, increase in costs due to supply chain disruption, mortgage or lease payments or repaying obligations that cannot be met due to revenue loss. The emergency grant cash advances are available even if a company does not otherwise qualify for additional funds.
- **Alternative Credit:** The CARES Act waives the requirement that a Borrower be unable to obtain credit elsewhere, which means that a company may apply for a loan even if it has a credit line elsewhere.

As of March 30, companies may apply for a loan directly with the SBA by visiting www.SBA.gov/disaster. Please ensure you are applying for Economic Injury for the Coronavirus (and not based on a different disaster). The SBA offers additional information at www.sba.gov/coronavirus. Unfortunately, the SBA has not provided an estimated timeline for application approval on these loans.

Paycheck Protection Program

In addition to the Economic Injury Disaster Loans, the CARES Act's Paycheck Protection Program offers a secondary source of financial assistance to small business. Under this program, loans are made by SBA-approved local lenders and SBA authorization is not required for the loan (which may likely expedite the loan approval process). Funds from these loans must be used to keep workers, maintain payroll, and make mortgage, lease and utility payments. The details of this loan program are as follows:

- **Terms:** The maximum interest rate is 4% with a maximum term of up to 10 years.
- **Business Type:** This program is offered to small businesses and non-profits with less than 500 employees, select types of business with less than 1,500 employees and some veteran organizations which have been in operation before February 15, 2020. Self-employed and freelance workers are also eligible to apply if they have been in operation before February 15, 2020.
- **Loan Amount:** The loans are for up to the maximum of the lesser of \$10 Million or 2.5 times the average monthly payroll costs (including expenses for paid sick leave, healthcare and other benefits) during the 1-year period before the date on which the loan was made.
- **Guarantee:** No personal guarantee is required.



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- **Collateral:** No collateral is required.
- **Payment Deferral:** Payments can be deferred for 6 to 12 months.
- **Loan Forgiveness:** Part of the loan may be forgiven equal to the amount spent by the borrower in the 8-week period after the loan origination date for the following expenses: payroll costs (not to exceed \$100,000 of annualized compensation per employee), payments on interest or any mortgage loan incurred prior to February 15, 2020; rental expenses for any lease in effect prior to February 15, 2020, utility costs for services which began before February 15, 2020. The amounts forgiven are not considered taxable income and will generally be reduced by any reduction in the number of employees retained as compared to the prior year.
- **Alternative Credit:** The CARES Act waives the requirement that a Borrower be unable to obtain credit elsewhere, which means that a company may apply for a loan even if it has a credit line elsewhere.

A business can apply for the Paycheck Protection Program through any lending institution that is approved to participate in the program through the SBA or the Department of Treasury. Your bank may already be approved to participate in this program. Please call your current bank or one in your area to find out if they can assist you in applying for the Paycheck Protection Program.

This release was provided to you by the Corporate Practice Group of Handler Thayer, LLP. For additional information concerning this release, please feel free to contact Neena Gill at ngill@handlerthayer.com or Steven Thayer at sthayer@handlerthayer.com.