



## **Federal SBA Loan Programs & CARES Act: Information for Nonprofit Organizations**

Many of our nonprofit clients have been asking for additional information regarding small business loans, for which they may be eligible during the current pandemic. There is one program currently available (The Economic Injury Disaster Loan) and an additional, and much more impactful, program currently working its way through Congress as part of the CARES Act.

### **What's currently available now: The Economic Injury Disaster Loan**

– <https://disasterloan.sba.gov/ela/Declarations/DeclarationDetails?declNumber=6063436&direct=false>

- Eligibility includes Non-profits
- Offers up to \$2 million in assistance to pay fixed debts, payroll, accounts payable and other bills that can't be paid
- For non-profits the interest rate is 2.75%
- Long term loans available for up to 30 years

Last night the US Senate passed the “**Coronavirus Aid, Relief, and Economic Security (CARES) Act.**” The House still needs to vote on it – expected on Friday – and then the bill would need to be signed in to law by the President. Here is the text of the bill <https://www.congress.gov/congressional-record/2020/03/25/senate-section/article/S2063-3>. Section numbers are listed below if you wish to read the full statutory text.

Here are the highlights:

### **Small Business Emergency 7(a) Loans – aka “Paycheck Protection Loans” (Sec 1102)**

- The CARES Act amends the current Section 7 of the Small Business Act. So technically speaking these loans are “7(a) Loans” (which do exist currently) with changes making it “Paycheck Protection Loans”.
- The loan is available to 501c3s (even if they receive Medicaid funding) for a “covered period” February 15, 2020 thru June 30, 2020
- The government will fully 100% guarantee the loans through December 31 – at which point loans greater than \$150,000 will only be 75% guaranteed, and loans \$150,000 or less will be only guaranteed 85%
- Limited to organizations with 500 employees or less (actual people not FTEs)
- Loans are limited to lesser of:
  - o The sum of:
    - § 1) 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, and
    - § 2) any disaster loan (discussed below) taken out after January 31, 2020 that has been refinanced into a paycheck protection loan
  - o \$10 million
- Payroll costs are the sum of the following:
  - o wages, commissions, salary, or similar compensation to an employee or independent contractor,



- o payment of a cash tip or equivalent,
- o payment for vacation, parental, family, medical or sick leave,
- o allowance for dismissal or separation,
- o payment for group health care benefits, including premiums,
- o payment of any retirement benefits, and
- o payment of state or local tax assessed on the compensation of employees,
- Payroll costs do not include
  - o the compensation of any individual employee in excess of an annual salary of \$100,000,
  - o payroll taxes,
  - o any compensation of an employee whose principal place of residence is outside the U.S., or
  - o any qualified sick leave or family medical leave for which a credit is allowed under the new Coronavirus Relief Act passed last week.
- Loans have a maximum maturity of 10 years and an interest rate not to exceed 4%
- Standard fees typically under 7(a) loans are waived and no personal guarantee is required by business owner
- Allows complete deferment of 7(a) loan payments for at least six months and not more than a year, and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.

#### **Loan Forgiveness of “Paycheck Protection Loans” (Section 1106)**

- A portion of the aforementioned “paycheck protection loans” can be forgiven on a tax-free basis
- Amount forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan:
  - o payroll costs (as defined above)
  - o mortgage interest,
  - o rent,
  - o certain utility payments
- To seek forgiveness the borrower will need to submit to a lender an application that includes documentation verifying the number of employees and pay rates, and cancelled checks showing mortgage, rent, or utility payments
- A provision, however, that reduces the amount that may be forgiven if the employer either:
  - o Reduces its workforce during the 8-week covered period when compared to other periods in either 2019 or 2020, or
  - o 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.

#### **Changes to the Economic Injury Disaster Loan (Section 1110)**

- Would eliminate creditworthiness requirement
- Appropriates an additional \$10 billion to the program so that eligible non-profits can get checks for \$10,000 within three days



#### **Employee Retention Payroll Tax Credit (Section 2301)**

- Creates a refundable payroll tax credit of up to \$5,000 for each employee on the payroll when certain conditions are met
- The entity had to be an ongoing concern at the beginning of 2020 and had seen a drop in revenue of at least 50 percent in the first quarter compared to the first quarter of 2019
- The availability of the credit would continue each quarter until the organization's revenue exceeds 80 percent of the same quarter in 2019.
- For tax-exempt organizations, the entity's whole operations must be taken into account when determining the decline in revenues.
- Employers receiving emergency SBA 7(a) loans would not be eligible for these credits.

#### **Delay of Payment of Employer Payroll Taxes (Section 2302)**

- Allows employer's share of the 6.2% Social Security tax that would otherwise be due from the date of enactment through December 31, 2020, to be paid on December 31, 2021 (50%) and December 31, 2022 (50%).

#### **Industry Stabilization Fund (Section 4003)**

- Mid-sized businesses, including nonprofits, that have between 500 and 10,000 employees are expressly eligible for loans under this provision
- There is no loan forgiveness provision in this section
- The mid-size business loans would be charged an interest rate of no higher than two percent and would not accrue interest or require repayments for the first six months
- Nonprofits accepting the mid-size business loans must retain at least 90 percent of their staff at full compensation.

#### **Benefits for Donors: Charitable Giving Incentive (Section 2204 & 2205)**

- Includes a new above-the-line deduction (universal or non-itemizer deduction that applies to all taxpayers) for total charitable contributions of up to \$300
  - o The incentive applies to contributions made in 2020 and would be claimed on tax forms next year. This will be permanent moving forward beyond 2020.
- Temporarily Lifts the existing cap on annual contributions for those who itemize, raising it from 60 percent of adjusted gross income to 100 percent

#### **Benefits for the people you serve: Direct Payments (Section 2201)**

- Cash payments adults of \$1,200 or less and \$500 per child (\$3,400 for a family of four) to be sent out in weeks
- The amount of the payments phases out based on earnings of between \$75,000 and \$99,000 (\$150,000 / \$198,000 for couples)

#### **Benefits for the people you serve: Extended Unemployment Insurance (Section 2104)**

- Coverage for workers who are furloughed, gig workers, and freelancers
- Increases payments by \$600 per week for four months on top of what state unemployment programs pay



**Benefits for the people you serve: Additional items**

- Eligible individuals can withdraw up to \$100,000 from their retirement accounts, in total, without the 10% penalty as long as they pay back the distributions within three years (Section 2203)
- Suspends payments for student loans under the Federal Family Education Loan and Direct Loan programs without interest through Sept. 30, 2020 (Section 3513)
- Temporary ban on landlords filing evictions on most renters (Section 4024)
- Temporary ban on some foreclosures and have options for mortgage forbearance for federally backed mortgage loans (Section 4022, 4023)

***This document is intended solely as a general guide to recent policy changes. BMA encourages our clients to work directly with their financial professionals and legal counsel regarding specific applicability to your organization.***