

**KERRICK BACHERT PSC
COVID-19 LEGAL UPDATES**

All small businesses - and banks - should consider the new SBA loans.

Scott A. Bachert
Kerrick Bachert PSC

(Subject Update as Regulations are Issued by SBA)

The "*Coronavirus Aid Relief and Economic Stability Act*" ("CARES Act") was enacted by Congress and signed into law by the President last week. The CARES Act amends the existing SBA Small Business Administration 7(a) Loan program on a temporary basis to provide immediate relief to small businesses and their employees. Congress included provisions for SBA loans that every eligible small business should consider. One of the key features of the new loan program is that the loan will be forgiven in an amount used to cover payroll costs; interest on a mortgage; rent, or utility payments. Since these new loans are 100% guaranteed by the SBA, the lending bank suffers no loss.

Who is eligible for a 7(a) loan? Any small business employing less than 500 employees. Sole proprietors, independent contractors and self-employed individuals are also eligible

What are the allowable uses of the loan? Allowable uses of the loan include payroll support (including salaries; sick and medical leave) state and local payroll taxes; insurance premiums; rent; mortgage payments; and interest on other debts incurred prior to February 15, 2020.

What is the maximum loan amount? The maximum loan amount will be the lesser of 2.5 times the average monthly payroll costs subject to a maximum of \$10 million.

Will the borrower have to post collateral? No. The new rules waive collateral requirements. Personal guarantees are also waived, as are the typical SBA fees.

What portion of the loan will be forgiven? Loan forgiveness is provided for that portion of the loan used in the eight-week period from the date of the origination of the loan for payroll costs, interest on mortgage loans; rent and utilities. The loan forgiveness will be reduced proportionately by the reduction in employees retained compared to the prior year or the reduction of any pay of any employee.

Will loan forgiveness be treated as income? No. The CARES Act provides that the amount forgiven will be excluded from the borrower's taxable income. The SBA will actually pay the lender for the portion of the loan, which is forgiven.

What are the terms of the loan? To the extent that the loan is not forgiven, the covered loan will have a maximum maturity of 10 years. The interest rate shall not exceed 4%. All prepayment penalties are waived.

When do I have to start repaying the loan? All borrowers adversely impacted by COVID-19 will be entitled to a complete payment deferral of principal, interest and associated fees, for a period of no less than six months and no more than one year.

Do I apply for the loan with the SBA or with a local bank? A loan application will need to be submitted to a participating bank. Banks are being encouraged to participate by waiver of the usual SBA fees; the payment of a fee to the bank based upon the size of the loan; and the amendments of the regulatory capital requirements. In addition, all loans will be 100% guaranteed by the SBA through December 31, 2020, after which the loan guarantee will return to 75%.

I have already received an Economic Injury Disaster Loan (“EIDL”) am I eligible for the new 7(a) Loan? If you received an EIDL Loan between February 15, 2020 and March 30, 2020 you can still apply for the 7(a) Loan. Thereafter, a borrower will not be eligible for both loan programs.

I have an existing 7(a) Loan, are there provisions in the CARES Act to provide relief on the existing loans? The CARES Act provides that the SBA is to encourage payment deferments and extensions of loan maturities. The SBA will actually pay the principal, interest and associated fees for a six-month period beginning with the next payment date.

We will post any additional legal updates as the SBA issues new regulations.

Please note that this update is for informational purposes only and is not intended to create an attorney-client relationship between any viewer or reader of the update and any author of the update or attorney at Kerrick Bachert, PSC.

If you have any questions about how the CARES Act may impact your business or need assistance with the loan application, contact Kerrick Bachert at info@kerricklaw.com.