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Balch & Bingham LLP

The CARES Act: Which small business loan is right for your business?

Congress has passed the Coronavirus Aid, Relief, and Economic Security Act – the CARES Act. Among (many) other things, it provides for two types of attractive loans for small businesses, which are defined as having 500 or fewer employees. This summary provides a comparative overview of each type of loan and describes how to apply. This information is not exhaustive but can provide a roadmap for your business in these uncertain times.

EIDL	PPP LOAN
<p>This is an Economic Injury Disaster Loan (SBA 7(b))</p> <p>Covered period for substantial economic injury: January 31, 2020 through December 31, 2020</p> <p>Loan Proceeds can be used for payroll, working capital, accounts payable, fixed debts, other bills that cannot be paid due to COVID-19 impact</p>	<p>This is a Paycheck Protection Program Loan (“PPP Loan”) (SBA 7(a))</p> <p>Covered period for loan: February 15, 2020 through June 30, 2020.</p> <p>Loan Proceeds <u>must</u> be used for payroll (including employee salaries*, hourly wages, cash tips, paid sick or medical leave, and group health insurance premiums), existing interest payments on mortgages, rent payments, leases, and utility service agreements.</p> <p>*up to an annual rate of pay of \$100,000.00</p>



<p>Loan Proceeds cannot be used for repair physical damage, refinance of debt incurred prior to COVID-19, payments on loans owned by a Federal Agency or a Small Business Investment Company licensed under the Small Business Investment Act, or to generally pay dividends or disbursement to owners, partners, officers or stockholders</p>	<p>Loan proceeds cannot be used for other business related expenses not listed above (example – inventory).</p>
<p>Maximum Loan Amount is \$2,000,000.00</p>	<p>Maximum Loan Amount is lesser of (1) \$10,000,000.00 or (2) 250% of average monthly payroll expenses.</p>
<p>Terms: Up to 30 year term, 3.75% interest rate, payments are not due until 12 months after receipt, and interest doesn't accrue until 12 months after receipt, waives personal guarantee for EIDLs less than \$200,000.00, collateral is required on EIDLs greater than \$25,000.00 (however EIDL will not be denied simply because collateral is not available).</p>	<p>Terms: Up to 10 year term, interest rate capped at 4%, non-recourse, no personal guarantee or collateral required.</p>
<p>EIDLs are not forgivable and must be repaid, but at the time of application a business can request an EIDL Emergency Grant which allows for a \$10,000.00 advance at the time of application. The Emergency Grant does not have to be repaid, even if the application is denied. If you receive an Emergency Grant and are also approved for a PPP Loan, the amount of the Emergency Grant shall be reduced from the loan forgiveness amount for payroll costs on your PPP Loan.</p>	<p>PPP Loans are forgivable. All covered costs (as laid out in the Loan Proceeds section above) during the covered time period (see covered period section above) are forgivable and do not need to be repaid. <u>Loan forgiveness is not automatic and an application must be submitted to qualify.</u> Accurate and thorough documentation of costs is highly advised in order to increase eligibility for forgiveness. Amounts that are forgiven are not included in gross income and are not taxable.</p>

Which loan is right for your business?

These two loans can work hand in hand, with the EIDL covering costs for working capital and fixed assets (with the exceptions listed above), and the PPP Loan covering payroll costs, interest on mortgages, rent, utilities, and interest on other debt obligations. When applying for an EIDL, make sure to clarify that your purpose is for expenses **other than** those allowed under a PPP Loan on the loan application to remain eligible for both loans.



Here's how to apply and the types of documents and information you should begin to assemble:

To apply for an EIDL: Visit the SBA.gov website -- the top of the page should have a COVID-19 link. In that link you will find information relating to applying for an EIDL.

In order to be prepared to apply for an EIDL, as soon as possible assemble the following types of documents and information:

- Business tax returns for the last three years
- Personal tax returns for the last three years
- Business financial statements
- Personal financial statements
- Business debt schedule
- Monthly sales figures for the last twelve months

To apply for a PPP Loan: You can apply for a PPP Loan at any lending institution that is approved to participate in the program through the existing U.S. Small Business Administration (SBA) 7(a) lending program and additional lenders approved by the Department of Treasury. This could be the bank you already use or a nearby bank. You can call your bank or find SBA-approved lenders in your area through SBA's online Lender Match Tool, or you can call your local Small Business Development Center and they can provide you with a list of lenders.

In order to be prepared to apply for a PPP Loan, as soon as possible assemble the following types of documents and information:

- Payroll Ledger for the last twelve months
- 2019 tax statements (including all 2019 IRS Form 941) (this should provide number of employees and payroll for the previous year)

SBA will not require business or personal financial statements for PPP Loan applications.

ABOUT BALCH & BINGHAM

Balch & Bingham LLP is a corporate law firm recognized nationally for its deep experience and counsel in regulated industries including energy and financial services, and its highly regarded practices in business, environmental, government relations, healthcare, labor and employment and litigation. The firm includes more than 200 attorneys in offices across the Southeast and Washington, D.C., who are known for a collaborative, multidisciplinary approach. Since its founding in 1922, Balch's commitment to an uncommon, efficient client experience has remained at the core of its mission. For more information, visit www.balch.com.

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