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Coronavirus and the Construction Industry


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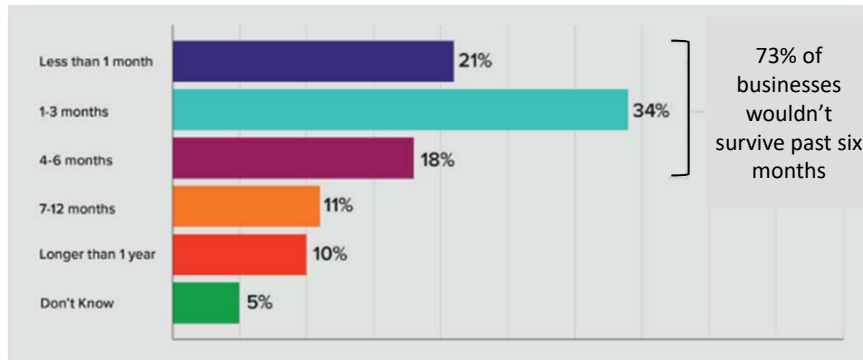
SBA ECONOMIC INJURY DISASTER LOAN PROGRAM



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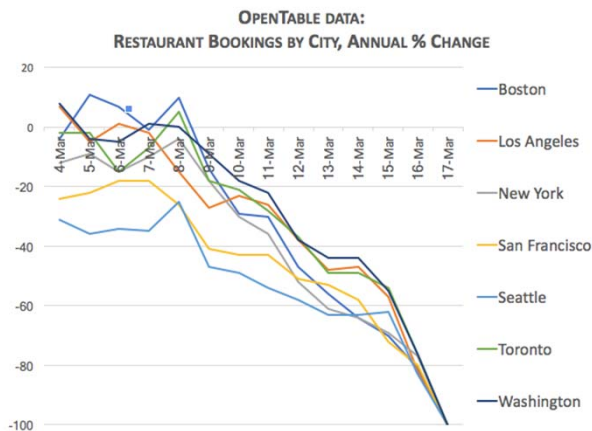


HOW LONG WOULD YOUR BUSINESS SURVIVE IF SALES STOPPED COMPLETELY?



<https://www.womply.com/blog/long-business-survive-sales-dropped/>

RESTAURANT BOOKINGS – MAR 4TH – 17TH



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Source: OpenTable

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THERE ARE TWO SEPARATE DISASTER RELIEF LOAN PROGRAMS FOR SMALL BUSINESSES

ECONOMIC INJURY DISASTER LOAN (EIDL) PROGRAM

- Suffered substantial economic injury in a declared disaster area (US).
- For-profit or Not-for-profit
- Substantial economic injury means the business is unable to meet its obligations and to pay its ordinary and necessary operating expenses.
- EIDLs provide the necessary **working capital** to help small businesses survive until normal operations resume after a disaster.

\$300B EMERGENCY CORONAVIRUS RELIEF


- Included in the \$2T stimulus relief package working through congress
- Part of *Keeping Workers Paid and Employed Act (CARES)*
- Funds used to pay workers, lease and utility payments

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SBA: ECONOMIC INJURY DISASTER LOAN (EIDL) (1)



Eligibility	<ul style="list-style-type: none"> • Small businesses affected by the disaster
Criteria	<ul style="list-style-type: none"> • Credit History: Acceptable to SBA • Repayment: Ability to repay • Eligibility: Suffered working capital damage
Borrowing Limit	<ul style="list-style-type: none"> • Up to \$2 Million
Interest Rate	<ul style="list-style-type: none"> • 3.75% - For Profit / 2.75% - Not For Profit
Use *	<ul style="list-style-type: none"> • Fixed debts, payroll, accounts payable, and other bills
Collateral	<ul style="list-style-type: none"> • Required where available




* - not for existing debt reduction, replace lost sales or expansion


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SBA: ECONOMIC INJURY DISASTER LOAN (EIDL) (2)



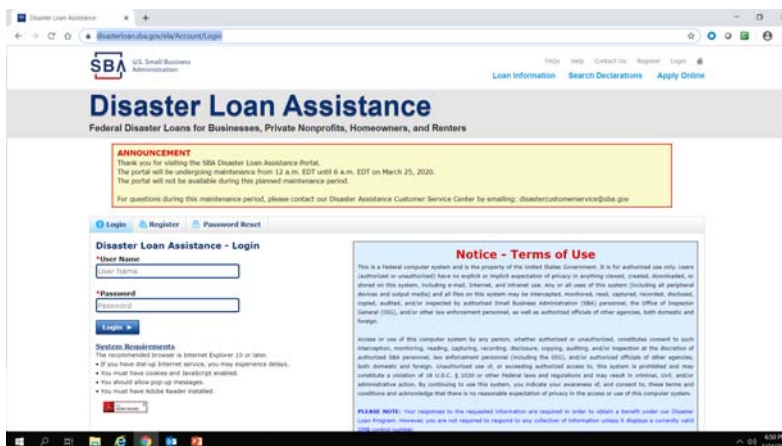
Applying	<ul style="list-style-type: none"> • Online or through mail
Documents	<ul style="list-style-type: none"> • Loan Application • Signed and dated IRS Form 4506-T allowing the IRS to provide SBA your tax return information
Payment Terms	<ul style="list-style-type: none"> • Based on borrowers ability to pay
Timing (Estimated)	<ul style="list-style-type: none"> • Decision: 2 – 3 weeks • Disbursement: 5 days
Link	<p style="text-align: center;">https://disasterloan.sba.gov/ela/Account/Login</p>



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SBA DISASTER LOAN ASSISTANCE LOGIN PORTAL



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<https://disasterloan.sba.gov/ela/Account/Login>

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PAGE 1 OF THE EIDL APPLICATION


It is critical that the ECONOMIC INJURY box be checked on Page 1 or you are applying for the wrong loan

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\$300B EMERGENCY CORONAVIRUS RELIEF (1)



Notes: This Bill has not yet passed (as of March 25)
 This Bill is different from the SBA EIDL
 Business are not eligible for both programs


Covered Loan Period	<ul style="list-style-type: none"> March 1 – December 31, 2020
Eligible Businesses	<ul style="list-style-type: none"> Up to 500 Employees, In business on February 15, 2020
Borrowing Limit	<ul style="list-style-type: none"> Increases 7(a) loans up to \$10Million thru Dec. 31
Delegated Authority	<ul style="list-style-type: none"> Increases decision making of 7(a) lenders without going thru SBA channels




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\$300B EMERGENCY CORONAVIRUS RELIEF (2)



Repayment Eligibility	<ul style="list-style-type: none"> Simply in business February 15, 2020 and employees with payroll
Fees	<ul style="list-style-type: none"> Waives borrower and lender fees for 7(a) loans
Loan Guarantees	<ul style="list-style-type: none"> Increases government guarantees of loans to 100% through December 31, 2020 (*)
SBA Express Loans	<ul style="list-style-type: none"> Increases maximum loan to \$1M from \$350,000 through December 31, 2020 (*)
Non-Profits	<ul style="list-style-type: none"> Reimbursement for ½ of unemployment costs incurred thru Dec. 31, 2020




(*) – Returns to normal following December 31, 2020

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\$300B EMERGENCY CORONAVIRUS RELIEF (3)



<p>Unemployment Comp.</p>	<ul style="list-style-type: none"> • Additional \$600 per week pay to each recipient of unemployment or pandemic unemployment assistance for up to four months
<p>Soc. Sec Tax Deferral</p>	<ul style="list-style-type: none"> • Allows deferral for employers and self-employed to defer employer ½ of Soc Sec Tax to Dec 31, 2021 and 2022

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OTHER CONSIDERATIONS

- Business Interruption Insurance
 - Most BII policies exclude interruptions for viruses
 - Check your policy for specific exclusions
- Contact your lender about other lending options
- Discuss with your lender options:
 - Payment deferment options (principal and interest for three months)
 - Interest only payments
 - Fee suspension programs
 - Other options

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MARKET THOUGHTS

- It is too late to de-risk portfolios.
- Huge opportunities in the municipal bond market.
- Corporate credit markets are in the cheapest 5% of history.
- Scaling into equity positions is the prudent approach.
- The biggest risk factors are policy errors on the healthcare and fiscal stimulus fronts.
- There are numerous reasons to be more bullish when looking at the data.



"It is tough to make predictions, especially about the future"
- Yogi Berra

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BUSINESS INTERRUPTION AND INSURANCE AMID A PANDEMIC



Jimmy S. Pappas, CPA, CFE, CFF, ABV
National Leader, Forensic Advisory Services



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- Unprecedented business disruption as a result of COVID-19
- How is Business Interruption insurance coverage triggered?
 - Damage to or loss of physical property
- What does Business Interruption coverage typically provide?
 - Lost business income that would have been earned but-for the covered event, plus standard continuing operating expenses

- COVID-19 poses unique insurance coverage questions
 - Does the insurance policy have a virus exclusion clause?
 - Does the presence of COVID-19 cause damage to or loss of physical property (for example in situations when a business closes due to the presence of infected individuals)?
 - Does the insurance policy provide for coverage as a result of shutdowns imposed by governmental authorities regardless of whether the affected business has discovered COVID-19 on its premises?
 - Does the policy cover business disruptions resulting from the loss of a key supplier's services/products?

- Ultimate determination of coverage depends on the specific wording of the policy and governing law.
- Affected businesses should consult with counsel as well as their insurance broker.
- Once the decision is made to file a claim, Marcum can assist in quantifying the lost business income in a manner that is supportable and can withstand external review, including during litigation



COVID-19 TAX ISSUES TREASURY AND CONGRESS TAKES ACTION



Barry A. Fischman, CPA
Construction Group Tax Services Leader



Michael D'Addio, JD
Principal, Tax Services

Tax Related Moves

- Treasury Grants Income Tax Return and Filing Relief
- The House Bill Passes creating new Sick Pay Leave and Emergency Family and Medical Leave funded with a refundable payroll tax credit. This bill is passed by the Senate and signed by the President.
- Senate passes a massive stimulus bill including many tax provisions intended to put cash flow into the hands of individuals and businesses. It is pending in the House of Representatives.

Treasury and IRS Action

- IRS issues Notice 2020-15 as an initial response to the COVID-19 pandemic to address the issue of testing costs. Until further guidance is issued, a high deductible health plan (HDHP) will not fail to be considered a HDHP if it decides to provide for COVID-19 testing and treatment without a deductible.
 - This Notice permits the insured to continue to contribute to a Health Savings Account on a tax-friendly basis.
 - This Notice did not mandate that health insurers provide such testing at no cost, but permitting the plans to cover such costs. It advised insureds to check with their insurers.

IRS provides extension to 7/15 for the filing and payment of taxes due 4/15

- Secretary Mnuchin states Treasury will delay date for payment of taxes due on 4/15/2020 to 7/15/2020 up to \$10 million for corporations and \$1 million for individuals.
 - IRS issues Notice 2020-17 providing details on this extension
- IRS issues Notice 2020-18 which (a) extends the filing date for income tax returns due 4/15, including the first estimated tax payment to 7/15/2020; (b) provides for an extension of time to pay tax due (including the first estimate) without any limits.

IRS provides extension to 7/15 for the filing and payment of taxes due 4/15

- IRS Issues Guidance in Q&A Format addressing several issues:
 - The extension applies only to income tax return (e.g. not to payroll tax, excise tax, gift or estate tax returns)
 - Does not apply to returns due after April 15, 2020 (returns due on May 15, 2020 are not covered)
 - The second estimated tax payment (generally due June 15, 2020) is not extended to July 15.
 - Confirms that the taxpayer can receive an additional extension on July 15th by filing a request for extension of time to file Form 4868 or 7004.
 - Section 965 installment payments (normally due April 15, 2020) has been deferred to July 15.
 - The dates of contribution to IRAs, to Health Savings Accounts and Archer Medical Savings Accounts are deferred to July 15.
 - The payment of a 10% premature distribution penalty is also deferred until July 15.
 - If an income tax return is filed with a scheduled withdrawal on 4/15 to pay taxes, IRS will not delay. You must cancel and reschedule the payment.

House Bill H.R. 6201 Families First Coronavirus Response Act (FFCRA) – Sick Pay

- Emergency Paid Sick Leave Act – employers with fewer than 500 employees and government employers to provide covered employees with two weeks of paid leave where the employee who:
 1. Is subject to a Federal, State or local quarantine or isolation order related to COVID 19;
 2. Has been advised by a health care provider to self-quarantine;
 3. Is experiencing COVID-19 symptoms and seeks medical diagnosis
 4. Is caring for an individual subject to an order described in (1) and (2)
 5. Is caring for a child whose school is closed (or child care provider is unavailable) for reasons related to COVID-19; or
 6. Is experiencing any other substantially similar condition specified by Secretary of HHS, along with Secretaries of Labor and Treasury
- Full-time employees are entitled to 2 weeks (80 hours) and part-time employees are entitled to the typical number of hours that they work in a typical two-week period.

House Bill H.R. 6201 FFCRA Documentation and Getting the Credit

- Documentation: Employer must get some documentation in support of the reason for leave: including employee name, qualifying reason for requesting leave, statement that employee is unable to work (including telework), dates for which leave is requested
 - If the leave is the result of a medical provider advice, the name of the medical provider.
 - Employer may need to support the right to the credit on audit.
- Taking the credit: IRS and DOL provides
 - Employer can reduce the amount of federal payroll taxes and employee income tax withholding in anticipation of the credit due for the quarter,
 - If the reduction does not cover the amount paid, a refund for the balance is to be filed.
- Self-employed taxpayers are eligible for an equivalent payment as a credit against income taxes.

Senate CARES Bill Business Tax Provisions

- Employee Retention Credit for Employer Subject to Closure due to COVID-19: Eligible employer is allowed a credit against employment taxes for each calendar quarter equal to 50% of qualified wages for each employee taken into account for such calendar quarter
 - Limited for any employee to \$10,000 for all calendar quarters
 - Eligible employer is one who has a trade or business with respect to any quarter for which (i) operation is fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meeting due to COVID-19; or (ii) for which there has been a significant decline in gross receipts (i.e., less than 50% gross receipts for the same quarter in the prior year) and ending with the calendar quarter for which gross receipts are greater than 80% than the same calendar quarter in prior year.
 - Tax exempts can also take advantage of this credit.

Senate CARES Bill Business Tax Provisions

- Deferral of Employer Share of Payroll Taxes (or SECA for Self-Employed) for the period beginning on date of enactment to 1//1/2021.
- Net Operating Losses subject to a 5 year carryback and not limited by 80% of Taxable Income Rule. This applies to NOLs from 2018 2019 or 2020.
- Limitation on Net Business Losses Suspended. For non-corporate taxpayers who under TCJA were limited to using net business losses to the extent of \$250,000 (\$500,000 for married filing joint), taxable incomes for 2018, 2019 and 2020 can be computed without this limitation.
- Immediate Refund of the Corporate AMT Credit. Instead of a 4-year period (2018-2021), the credits can be taken over 2018 and 2019. An election can be made to recover the credits entirely in 2018.

Senate CARES Bill Business Tax Provisions

- More Business Interest Expense allowed. Under the TCJA, net business interest is limited to 30% of Adjusted Taxable Income (unless certain exceptions apply). For 2019 and 2020 this is increased to 50%
- Bonus Depreciation is Allowed on Qualified Improvement Property (QIP) costs. The legislative error in the TCJA is fixed and QIP now is eligible for immediate write-off. This provision is retroactive.
- Temporary Exception from Excise Tax on alcohol used to produce hand sanitizer.
- Corporation Charitable Deduction Limit is increased from 10% of Taxable Income to 25% of Taxable for 2020.
- Limitation on Deduction for Contribution of Food Inventory is increased from 15% to 25%

Senate CARES Bill Individual Tax Provisions

- Cash Payments: Up to \$1,200 per person, \$2,400 for married couple, and \$500 for each qualifying child
 - Phase-out for Individuals with AGI over \$75,000 and married couples with AGI over \$150,000. The reduction is \$5 for each \$100 of AGI over the thresholds.
 - Ineligible persons: nonresident alien individual or person who is a dependent of another.
 - There is a true up on the 2020 tax return.
- Retirement Plan Rules:
 - Required Minimum Distributions are waived for 2020
 - Corona-Related Distributions up to \$100,000 will be (a) subject to income tax over 3 years; (b) can be repaid to the plan within the 3-year period.
 - Premature Distribution Penalty (10%) will not apply to a corona-related distribution up to \$100,000.
 - Loans up to \$100,000 or 100% of the accrued benefit (considering prior loans) will not be treated as distributions. Some deferral of payment rules allowed

Senate CARES Bill Individual Tax Provisions

- Charitable Contribution Rules Amended for 2020
 - Up to \$300 of charitable contributions can be taken as a deduction in reaching Adjusted Gross Income. This confers a benefit regardless of whether the taxpayer itemizes.
 - The 50% AGI limitation is eliminated for certain qualified contributions.
 - This does not apply to contributions to certain private foundations or to donor advised funds.

Q&A with our Panelists



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