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April 6, 2020

SPECIAL CORONAVIRUS STIMULUS PACKAGE BENEFITS EDITION - PART II NEW SMALL BUSINESS GRANTS AND LOANS



Richard Nemeth

Richard Asked to Speak at National Bankruptcy Law Conferences in Puerto Rico and Hollywood

Our principal, Richard Nemeth, spoke at a national conference for bankruptcy attorneys in Puerto Rico last winter, and was invited to speak at the annual meeting of the National Association of Consumer Bankruptcy Attorneys (NACBA) in Hollywood California late next month. The Hollywood convention, however, has been cancelled by the governor due to Coronavirus concerns. Ironically, the topic was: "Death and Bankruptcy - Planning for the Unplanned", which would have been apropos during the pandemic.

NEWLY AUTHORIZED GRANTS AND LOANS WITH OUTSTANDING TERMS ARE AVAILABLE TO MOST SMALL BUSINESSES -- MAKE SURE TO TAKE ADVANTAGE OF THIS RARE OPPORTUNITY

Dear Richard,

Last, week we published a client advisory that addressed benefits available to individuals and families under the CARES Act. In this issue, we discussed help available to small businesses via Payroll Protection Program Loans and Economic Injury Disaster Grants and Loans. If you have a small business, it is crucial for you to understand what benefits are available



Don't like coming downtown? Let us schedule a telephone or Skype appointment.

We understand that coming downtown can be a hassle. If you would prefer to meet with us via Skype or telephone conference, we would be happy to set that up for you. Just email [Ashlee](#) or give her a call and she can walk you through setting up a Skype account on your computer.

NACBA's Annual Lobbying Efforts Finally Pay off

As a member of the board of directors of the National Association of Bankruptcy Attorneys (NACBA), Richard travels with his colleagues to Washington DC each year to meet with members of Congress and their legislative assistants to promote better laws for consumer bankruptcy filers. For the past decade or so, it has difficult to get anything done because of hopeless partisan gridlock on Capitol Hill..This year, however, Congress was forced to act because of the unprecedented Coronavirus emergency. Suddenly, reforms that NACBA has been seeking for years were passed practically unanimously, and within days. So, if nothing else, the emergency finally paved the way for some positive legislative changes.



A referral from a client is the greatest compliment we can receive. We appreciate the trust you put in us by doing so.

Nemeth & Associates, LLC has been designated by Congress and the President of the United States as a Debt Relief Agency. We have been proudly helping

under these programs. It could mean the difference between life and death for your business.

And remember, we're still at work, so if you have any questions or comments about the new law, please don't hesitate to give us a call.

Best of luck to all of you, and stay healthy!

Richard Nemeth

Payroll Protection Program Loans



The CARES Act authorizes new loans intended to protect the payrolls of small companies during the health emergency. The loans will be made available to small companies so that they can continue to pay their employees until the crisis is over. And, provided that the proceeds are used for that purpose successfully, they **DO NOT HAVE TO BE REPAYED**. Here are the basic terms:

Eligibility

Businesses with not more than the greater of (a) 500 employees, or (b) any larger number set by the SBA for a specified industry. The 500 employee threshold includes all employees, whether full-time, part-time, or any other status.

- This applies to all for-profit businesses, nonprofit organizations, veterans organizations, or tribal business concerns;

consumers and small
businesses file bankruptcy
for nearly 30 years.



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- The PPP program is in addition to small businesses that may normally qualify under the separate EIDL program (see EIDL below);
- Sole proprietors, independent contractors, and self-employed individuals (including workers in the "gig economy") are eligible businesses; and
- You must have been in business on February 15, 2020, and had employees or independent contractors you were paying.

Maximum Loan Amount

The maximum loan amount is the lesser of: \$10 million; or (a) 2.5x the average total monthly payroll costs during the one year before the loan is made, plus other SBA loans made to the business after January 31, 2020, plus (b) the outstanding amount of any SBA 7(a) loan already approved between January 31, 2020, and the date the PPP loan is made.

- There are adjustments for seasonality for seasonal employers.
- There are adjustments for new business that first commenced operations after June 30, 2019.

Authorized Uses

The special PPP loans may be used for:

- Payroll costs (salary, wage, commission, or similar compensation, payment of cash tip or equivalent, payment for vacation, parental, family, medical, or sick leave, allowance for dismissal or separation, group health care benefit insurance premiums, retirement benefits, state or local tax assessed on the compensation of

employees) excluding salary and wages over \$100,000 for an individual employee as prorated for the Covered Period;

- Continuation of healthcare benefits during periods of paid sick, medical, or family leave;
- Payments of interest (but not principal or loan prepayment) on mortgage obligations in effect before February 15, 2020;
- Rent (including rent under a lease agreement entered before February 15, 2020);
- Utilities; and
- Interest payments due on any other debt obligations incurred before February 15, 2020.

No Guaranties; No Collateral; No Recourse

- There is no personal guarantee requirement for PPP loans;
- There is no collateral requirement for PPP loans; and
- The SBA has no recourse against any individual shareholder, member, or partner of the eligible business for nonpayment of the loan, except to the extent this loan is not used for the authorized uses (see Authorized Uses above).

Loan Forgiveness

Subject to the limits described under the next heading, a PPP loan may be forgiven to the extent the loan proceeds are used during the eight weeks after the loan is made to pay the following:

- Payroll costs (salary and wages of up to \$100,000 per employee as prorated for the Covered Period);

- Interest (but not principal or loan prepayment) on any covered mortgage obligation (on real or personal property) incurred before February 15, 2020;
- Rent obligations on lease agreements in force before February 15, 2020; and
- Utility payments for electricity, gas, water, transportation, telephone, or internet access
- where service began before February 15, 2020.

Amounts forgiven under the CARES Act are not included in gross income or subject to taxation.

Limits on Amount of Forgiveness

The amount of forgiveness is subject to certain limits:

- The amount forgiven may not exceed the principal of the PPP loan;
- This loan forgiveness formula is reduced by any reduction of employees (compared to the number of employees in previous periods, but see Rehires Or Restoration below); and
- The loan forgiveness formula will be reduced in an amount equal to any salary or wage reduction for employees with 2019 salary and wages of \$100,000 or less, if their salary or wages are reduced by more than 25% (compared to the prior full quarter).

Term and Interest Rates

For any portion of a loan not forgiven (see Loan Forgiveness above), after December 31, 2020 the loan will have a repayment term of up to 10 years (from the date on which the borrower applies for loan forgiveness), bearing interest not to exceed 4%. There will be no prepayment penalty.

Payment Deferral

The PPP loan may be eligible for six to 12 months of payment deferral, including payment of principal, interest, and fees.

Credit Elsewhere

During the Covered Period, the PPP suspends the normal eligibility rule requiring that the small business cannot obtain credit elsewhere.

Loan Applications and Deadline

Loan applications are made through commercial banks, savings and loans, and credit unions that are already pre-approved SBA lenders. Some lenders are already circulating preliminary materials describing these loans. The deadline for applications is June 30, 2020.

Refinancing - Narrowly Limited

If your business already obtained an SBA loan (including an EIDL for COVID-19 economic injury) after January 31, 2020, that loan *may* be refinanced as part of a PPP loan. Other loans cannot be refinanced.

Rehires or Restoration

The loan forgiveness formula will not be reduced for a reduction in FTEs or reduced wages made between February 15, 2020, and April 26, 2020, to the extent the number of FTEs is restored or reduced wages are restored no later than June 30, 2020.

Borrower Certification Requirements

On the application, each applicant must certify in good faith that:

- The uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;

- The loan funds will be used to retain workers, maintain payroll, or make mortgage payments, lease payments, and utility payments; and
- The business does not have another application pending for a PPP loan, or loan received, for the same purpose and duplicative amounts.

ECONOMIC INJURY DISASTER GRANTS AND LOANS



Emergency EIDL Grants Advance - \$10,000
A business eligible for a PPP loan that has been in business for at least one year and was in business on January 31, 2020, may also apply for a \$10,000 emergency grant to:

- Provide payment of Authorized Uses, listed above in connection with PPP loans;
- Provide paid sick leave to employees unable to work due to the effect of COVID-19;
- Maintain payroll to retain employees;
- Meet increased costs to obtain materials unavailable from original sources due to interrupted supply chains;
- Make rent or mortgage interest payments; and
- Repay obligations that cannot be met due to revenue losses.

An applicant will not be required to repay a grant advance, even if subsequently denied a PPP loan.

If an applicant also receives a PPP loan, the amount of the grant advance will reduce the loan forgiveness amount for a SBA 7(a) loan for payroll costs.

The emergency EIDL grant money is available within three days after the SBA receives the application, and is related to your PPP application. It is completely unrelated to an EIDL loan (see EIDL below).

Economic Injury Disaster Loans (EIDL)

If you already obtained an EIDL of up to \$2 million after January 31, 2020, there may be an opportunity to refinance that EIDL into a PPP loan.

Potential Deferments for Existing SBA Loan

If you have an existing SBA loan (whether a 504 loan, 7(a) loan, Community Advantage loan, or otherwise), during the period of a declaration of national emergency by the president under the National Emergencies Act:

- SBA lenders have been encouraged to grant payment deferments, when appropriate, and to extend the maturity of covered loans, so as to avoid balloon payments or any requirement for increases in debt payment during the period of the national emergency declaration by the president; and
- Deferments, if granted, may be for up to six months.

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