



## Economic Injury Disaster Loans under the CARES Act

### **Overview**

The CARES Act expands the Economic Injury Disaster Loan (“EIDL”) program administered by the Small Business Administration (“SBA”). EIDLs are loans available to small business borrowers that have suffered economic injury as a result of a pandemic or other disaster. It is important to note that provisions of SBA’s Section 7(a) loans are still generally applicable to EIDLs. In addition, the relaxed affiliation rules for Paycheck Protection Program loans do not carry over to the expanded EIDL program. For more information on the Paycheck Protection Program, please see [our alert providing an overview of the program](#).

### **Eligibility Details**

Generally, small businesses and small agricultural cooperates that meet the applicable size standards for SBA and private nonprofit organizations are eligible for EIDLs, however, under the expanded rules, the following applicants may also apply:

- a business with no more than 500 employees;
- an individual who operates under a sole proprietorship, with or without employees, or as an independent contractor;
- a co-op with no more than 500 employees;
- a tribal small business concern; or
- an ESOP with no more than 500 employees.

### **EIDL Requirement Waivers**

For EIDLs made during the covered period in response to COVID-19, the following requirements shall be waived:

- any rules related to the personal guarantee on advances and loans of not more than \$200,000;
- the requirement that an applicant needs to be in business for the 1-year period before the disaster, except that no waiver may be made for a business that was not in operation on January 31, 2020;
- that the applicant submit a tax return or a tax return transcript for approval; approval may be based solely on the applicant’s credit score or other appropriate methods to determine the applicant’s ability to repay; and
- the requirement that the applicant is unable to obtain credit elsewhere.

## **Emergency EIDL Advance**

Applicants applying for an EIDL in response to COVID-19 during the covered period may request an advance in an amount up to \$10,000 to be used for, in addition to permitted uses of EIDL proceeds under current law:

- Providing paid sick leave to employees unable to work due to the direct effect of COVID-19;
- Maintaining payroll to retain employees during business disruptions or substantial slowdowns;
- Meeting increased costs to obtain materials unavailable from original sources due to interrupted supply chains,
- Making rent or mortgage payments; and
- Repaying obligations that cannot be met due to revenue losses.

The Emergency EIDL advance should be available to applicants within several days of submitting their application. Applicants shall not be required to repay any amounts of an advance provided even if subsequently denied an EIDL. Any emergency EIDL advance received by a borrower who subsequently receives a Paycheck Protection Program loan will be subtracted from the calculation of the loan forgiveness amount referred to above.

## **EIDL Loan Terms & Conditions**

- Loans to small businesses impacted by COVID-19 shall be 3.75%.
- Loans to non-profits impacted by COVID-19 shall be 2.75%.
- The maximum loan amount is \$2,000,000.
- The maximum repayment term is up to 30 years.
- The outstanding amount of an EIDL made after January 31, 2020 and up to the date on which Paycheck Protection Loans are made available may be refinanced into a Paycheck Protection Loan subject to the aggregate \$10,000,000 cap on Paycheck Protection Loans.

## **How to Apply**

Unlike Paycheck Protection Loan applications which are processed by local banks and credit unions, EIDL applications must be submitted directly to the SBA. Applications may be submitted online or through mailed in forms. For more information, please refer to the [SBA's website](#).

**Please feel free to contact the following individuals at Updike, Kelly & Spellacy, P.C. with any questions or to inquire as to representation related to these topics**

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Urdike, Kelly & Spellacy, PC would like to thank associate Michael J. Paciorek for his contributions to this client alert.

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