

# A COMMERCIAL TENANT'S CHECKLIST FOR FINANCIAL RECOVERY DURING COVID-19 CRISIS

	ACTION	ELIGIBLE BORROWERS	LOAN TERMS
1	<p>Determine eligibility and apply for loan from SBA's Economic Injury Disaster Loan ("EIDL") Program. <sup>1</sup></p> <p><b>How and When to Apply:</b></p> <p>Now. Applications for EIDLs may be filed online directly with the SBA <a href="#">here</a>.</p>	<p>Any small business whose business is affected by COVID-19 crisis in disaster areas (as declared by U.S. President and SBA <sup>2</sup>)</p>	<ul style="list-style-type: none"> <li>• Loan amount up to \$2 million</li> <li>• Loan proceeds may be used for payment of payroll, fixed debt, accounts payables of business</li> <li>• Interest rate of 3.75% for most borrowers (2.75% for non-profit borrowers)</li> <li>• Loan Maturity - 30 years max</li> <li>• Collateral may be required for loans of \$25,000 or more</li> <li>• Eligible for Loan Forgiveness: No, but EIDL loans may be refinanced with PPP Loans. PPP Loans may be subject to forgiveness.</li> </ul>
2	<p>Determine eligibility and apply for a loan from SBA's Paycheck Protection Program (PPP <sup>3</sup>) from an SBA-approved lender/bank of your choice.</p> <p><b>How and When to Apply:</b></p> <p>Loan applications for small businesses and sole proprietorships open on April 3. Applications for independent contractors and self-employed individuals open April 10.</p> <p>Applications must be complete by June 30. Because loan pool is capped, applications should be filed ASAP. Applications are filed directly with your selected lender/bank. Contact your banker for information.</p>	<p>Any small business (including sole proprietors) with less than 500 employees <sup>4</sup></p>	<ul style="list-style-type: none"> <li>• Loan amount up to the lesser of \$10 million or 2.5 times average monthly payroll payments in one year period before loan is made (businesses that are less than one year old may still be able to qualify)</li> <li>• Loan proceeds may be used for payment of payroll costs (including sick and family leave) up to a cap of \$100K per employee; rent under leases, utilities, interest only payments on certain other debts</li> <li>• Interest rate is fixed at 1.0% (no payments are due during first six months but interest will accrue during non-payment period)</li> <li>• Loan Maturity - 2 years</li> <li>• No collateral or guarantees required; non-recourse; borrower's ability to repay is not to be considered; only question is was business open with employees on February 15, 2020</li> <li>• Eligible for Loan Forgiveness: Yes, up to 100% of amounts spent over the eight (8) week period after the loan is made on payroll costs, rent, utilities, interest on debt (provided, however, it is anticipated that not more than 25% of the forgiven amount may be used for non-payroll costs). Forgiveness is reduced proportionally if employer reduces employment levels and cuts salaries more than 25% for employees making less than \$100k during the 8 week period after the loan is made, as compared to prior periods (part of loan forgiven is not taxable to borrower).</li> </ul>

\*Effective as of April 6, 2020; subject to change as legislation is enacted and regulations promulgated.

This checklist is intended as an educational tool and not as legal advice.

waller

wallerlaw.com

ACTION		ELIGIBLE BORROWERS	LOAN TERMS
3	If business is not “small business” (e.g., more than 500 employees), special loan program to be created by U.S. Treasury Secretary to assist larger businesses. <sup>5</sup>	Any “eligible business” with over 500 employees whose business is affected by COVID-19 crisis.	To be determined by Treasury Secretary.
ACTION		TAX CREDITS/ACCOUNTING RULES	
4	Consult with your tax and accounting advisers to ensure you are taking advantage of tax credits and relaxation of accounting rules under the CARES Act and Families First Coronavirus Response Act (FFCRA) available to small businesses.	<ul style="list-style-type: none"> <li>• FFCRA provides income tax credits for businesses with at least 50 employees but not more than 500 employees in an amount equal to reimbursement for two weeks paid leave to employees who have been quarantined or have contracted COVID-19, or who have a sick family member</li> <li>• The CARES Act provides payroll tax credits for 50% of wages paid to employees during the COVID-19 crisis if the operations of business is partially suspended or if gross receipts are down by 50% or more during the same quarter in the prior year</li> <li>• The CARES Act permits deferral of the employer portion of social security tax payments may be deferred. Payments due for the balance of 2020 (half must be paid December 31, 2021 and balance paid by December 31, 2022).</li> <li>• The CARES Act provides for relaxed rules on how net operating losses for 2018, 2019 and 2020 can be carried back or carried forward which may benefit certain businesses</li> <li>• The CARES Act increases the amount of interest expense that may be deducted from 30% to 50% for 2019 and 2020</li> <li>• The CARES Act retroactively corrected the “qualified improvement property” glitch in the Tax Cuts and Job Act of 2017. Such property can now be depreciated over 15 years (rather than 39) or expensed. Amended returns can be filed for 2017, 2018 and, if already filed 2019 to claim a refund. If an NOL is created, as referenced above, the NOL can be carried back to claim additional refunds.</li> <li>• The CARES Act accelerated the recovery of the corporate AMT credit remaining at the end of 2017 and makes such credit available and refundable in tax years 2018 and 2019</li> </ul>	
ACTION		LOAN DEFERMENT OPPORTUNITIES	
5	Take advantage of applicable temporary loan deferment programs under the CARES Act.	<ul style="list-style-type: none"> <li>• Loan payments due under existing SBA loans may be deferred up to 6 months</li> <li>• Loan payments under Federal Student Loans held by HUD are temporarily deferred until September 30, 2020</li> </ul>	

*This checklist is intended as an educational tool and not as legal advice.*

waller

wallerlaw.com

ACTION		PROGRAMS PROVIDING FINANCIAL SUPPORT TO INDIVIDUAL TAXPAYERS
6	Educate your employees about COVID-19 related programs that may benefit them personally.	<ul style="list-style-type: none"> <li>• The CARES Act provides for the Federal Government to pay “recovery rebates” to individuals with adjusted gross incomes of \$75,000 or less (\$150,000 married filing jointly). Rebates are \$1,200 per person and \$500 per child.</li> <li>• Reduced restrictions on use of retirement funds (e.g., 401k, IRAs) - waives 10% penalty on early distributions of up to \$100,000 in 2020</li> <li>• Tenant eviction protection - moratorium on eviction proceedings on any landlord with HUD, Fannie or Freddie loans</li> </ul>
ACTION		BUSINESS INTERRUPTION CLAIMS
7	Consult with your insurance/risk management adviser to ensure that you have the most recent policy documents.	<ul style="list-style-type: none"> <li>• Some property insurance policies may provide insurance coverage for the losses you suffer during periods of a business shutdown</li> <li>• Complete an insurance coverage analysis of your policy to determine whether your policy has coverage</li> <li>• Ask your attorney or insurance adviser to determine if losses are covered after a thorough review of the actual policies</li> </ul>

*This checklist is intended as an educational tool and not as legal advice.*

<sup>1</sup> <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

<sup>2</sup> All U.S. states and territories have been declared disaster areas

<sup>3</sup> PPP Loan program created by Coronavirus Aid, Relief and Economic Security Act enacted March 27, 2020 (“CARES Act”)

<sup>4</sup> 500 employee maximum may not apply in restaurant or hospitality sectors if employer has less than 500 employees at certain physical locations or if is within SBA’s “industry base size standard”

<sup>5</sup> Section 4003 of CARES Act

waller

wallerlaw.com