

March 30, 2020 Publication

Topics

Tax
COVID-19
Federal Tax
CARES Act

Related People

Lewis M. Horowitz
horowitzl@lanepowell.com

Gregory T. Pyle
pyleg@lanepowell.com

Pilar C. French
frenchp@lanepowell.com

Eric J. Kodesch
kodesche@lanepowell.com

Andrew J. Geppert
gepperta@lanepowell.com

Related Practices & Industries

Business
Tax
COVID-19 Resource Center

Congress Also CARES About Self-Employed Individuals

COVID-19 Resource

The recently-enacted CARES ACT provides stimulus money for small businesses. As a self-employed individual, you likely qualify as a small employer. As such, you may be eligible for a number of loans and grants — in some cases without the need to establish how your own business has been hurt by the COVID-19 pandemic that is confining so many of us to our homes.

In a nutshell, you should consider applying for two types of small business loans — the Payroll Protection Plan (**PPP**) loan and the Economic Injury Disaster Loan (**EIDL**). The basics of both are available [here](#). For the PPP loan, you probably need to apply via your Small Business Administration (**SBA**) lender (usually your own bank). For the EIDL, [you apply online directly to the SBA](#). Hopefully, you can master these rules and complete the applications online because neither the SBA nor your SBA banker are likely to have time to answer your phone calls.

You will want to consider **both** an EIDL and a PPP loan because both of those loans are effectively converted (at least partially) into grants that do not have to be repaid. Details about these provisions are available [here](#).

Most applicants do not need a lawyer for this process — just an SBA banker for the PPP loan and an internet connection for the EIDL. But *only* \$349 billion has been allocated to this program, and it will be paid out on a first-come, first-served basis. So act quickly because money will run out.

Payroll Protection Plan

PPP applicants must certify, in good faith, that the uncertainty of current economic conditions makes the loan necessary to support your business

operations. If your business has been adversely affected by the pandemic, or you are legitimately concerned that some of your customers will not be able to timely pay their bills, then you probably need these funds and shouldn't be afraid to claim them. Applicants must acknowledge that the funds will be used to maintain their salary, maintain payroll (if you have any) or make mortgage payments, lease payments and utility payments. Applicants also must certify that they do not have other "covered loan" applications pending for similar or duplicative purposes.

Applicants will need the following documentation: payroll tax filings reported to the IRS, any Forms 1099-MISC you received for 2019, and income and expenses from your sole proprietorship. Copies of your 2019 and/or 2018 tax return are probably sufficient to satisfy the documentation requirements, especially if you prepare Schedules C and SE. You might want to complete your 2019 Form 1040 if your 2019 income is higher, or your expenses lower, than those amounts were in 2018.

Applicants can get a PPP loan of 2.5 times their monthly average "payroll costs," which has a special definition for this purpose and includes profits from your business up to \$100,000/per year, capped at \$10 million.

The following example is for a self-employed person with no employees. Assume that you have a self-employment income of at least \$100,000 in the year before you received the loan (\$8,333 as the monthly amount). This means you can get a PPP loan of \$20,833 ($\$8,333 \times 2.5$) even if you have no business expenses.

Further, you can get the whole loan **forgiven** if you have \$20,833 of expenses from any of the following four categories:

1. **Payroll Costs:** This can be up to \$15,300 that you pay yourself plus amounts paid to others who might perform services in connection with your business.
2. **Rent:** This can be for the office space or property you rent for your business (like a leased car).
3. **Utilities:** This can include internet access.

4. **Mortgage Interest:** This may include some mortgage interest on your home mortgage if you maintain a home office.

We anticipate that people will not have difficulty getting to \$20,833 of qualified expenses in eight weeks since most will be using the proceeds to effectively pay themselves about 75 percent of the loan proceeds. A spreadsheet for the PPP loan computation and forgiveness is available [here](#), but remember that payroll includes your profits (up to \$100,000 per year). Most people will want to borrow the maximum amount they can justify under the *2.5 times* calculation because there is no personal guarantee and no collateral needed. Any amount not forgiven must be repaid over 10 years at 4 percent interest.

Economic Impact Development Loans

You also may be able to request an EIDL (in addition to a PPP loan) so long as the loan proceeds are not used to cover the same expenses. You apply for your EIDL online [here](#), directly with the SBA. They are approved solely based on your credit score. EIDLs are available up to \$2 million, though most borrowers will prefer to cap their application at \$200,000 or less to avoid the need for a personal guarantee. EIDLs are likely to be granted more quickly than a PPP loan. The first \$10,000 of an EIDL is converted to an immediate grant, even if your loan request is denied. So, using the example, you could request a \$36,000 EIDL loan when you file for your PPP loan. By the time the PPP loan is granted a month later, the first \$10,000 of your EIDL loan will become a grant, and you will have already applied another \$10,000 or so toward maintaining your business (and your own income). So you would only need to repay about \$16,000. Any unpaid balance carries interest at 3.75 percent.