

On April 2, 2020, The U.S. Treasury Department released an “interim final rule” promulgated by the Small Business Administration (SBA) addressing implementation of the Paycheck Protection Program (PPP) established under the recently enacted CARES Act. On Friday, April 3, 2020, the SBA released guidelines and an interim final rule regarding PPP affiliation rules. These documents answered some of the questions our clients have been asking about the PPP, while still leaving many others still unanswered. This Alert includes highlights of the new information that came out on April 2 and 3, links to applicable information, and is a supplement to our March 31 and March 29 Client Alerts on this topic. [The Alert can be found here.](#)

As of March 13, 2020, the date that the President declared a National Emergency, employers are permitted to make tax-free disaster relief payments to their employees to reimburse or pay reasonable and necessary personal, living, or funeral expenses incurred by the employees as a result of the Coronavirus. For more information about this program: [The Alert can be found here.](#)

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The recently-enacted Coronavirus Assistance, Relief, and Economic Stability Act (the “CARES Act”) expanded the eligibility for the existing Economic Injury Disaster (“EID”) Loan program to small businesses nationally. This updated Alert amends our prior EID discussion to include the impact of CARES on EID loans. [The Alert can be found here.](#)

In view of the major disruptions caused by the Coronavirus, we provide this review of possible defenses that can excuse contractual performance under New York law. Specifically, we discuss the contractual defenses of *force majeure*, impossibility, and frustration of purpose. The application of these doctrines turns on the unique circumstances of each case. [The Alert can be found here.](#)

The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act that the President signed into law on March 27, 2020, includes the Relief for Workers Affected by Coronavirus Act, which provides for certain enhanced unemployment insurance benefits, subject to each State’s own existing regulations and the State’s interpretation and implementation of the applicable CARES Act provisions.

This week, the New York Department of Labor (“NYDOL”) issued guidance, in the form of frequently asked questions regarding New York’s implementation, as well as separate Guidance for Self-Employed Individuals (the “Self-Employed Guidance”). This Alert focuses on the NYDOL FAQs and Self-Employed Guidance. [The Alert can be found here.](#)

The City of New York has undertaken two relief programs for small businesses that have experienced a decrease in revenue of at least 25% as a result of the COVID-19 pandemic: the NYC Employee Retention Grant Program and the NYC Small Business Continuity Loan Program. This Alert describes those programs, their eligibility requirements and the application process. Please note that one program, for businesses with less than five employees, is accepting applications through 5:00 p.m. on April 3, 2020. [The Alert Can be found here.](#)

This alert summarizes a proposed bill before the New York State Senate numbered S8125-A, dated March 23, 2020. As currently drafted, the proposed bill intends to, for a period of 90 days: (i) suspend and forgive the rent payments of certain residential and small business commercial tenants detrimentally affected by the Coronavirus outbreak, and (ii) suspend and forgive a portion of the mortgage payments of any landlords who suffer financial hardship as a result of such rent forgiveness under this proposed bill. [The Alert can be found here.](#)

We previously issued an alert on Friday, March 27 describing the substantial expansion of the Small Business Administration's Section 7(a) loan program made pursuant to the Coronavirus Assistance, Relief, and Economic Stability Act (The "CARES Act"). The CARES Act has now been signed into law.

Our updated summary of the CARES Act's new forgivable loan program is now available for your reference. [The Alert can be found here.](#) In addition, we have issued alerts relating to (1) the SBA's "disaster loan" program and (2) the CARES Act's broad tax relief provisions. All of these, along with other relevant summaries produced by our team of legal experts are available elsewhere on our website.

Below is a high-level summary of the Paycheck Protection Program under The CARES Act which you may find relevant to your business. As always, we are ready to help you in navigating the complex issues presented by the new law and to assist you with your needs.

SBA's Paycheck Protection Program Loans:

- Businesses with fewer than 500 employees, and certain sole proprietors and contractors, may borrow up to the lesser of (i) 2.5 times the business's average monthly payroll costs or (ii) \$10 million.
 - Restaurants, food servicers, caterers, hotels and similar businesses are eligible so long as they have fewer than 500 employees *per location*.
 - Businesses in certain industries that employ greater than 500 employees may still be eligible, depending on SBA guidelines.
- Funds received from a PPP Loan may be spent on certain operational costs including:
 - payroll costs;
 - employee salaries;
 - rent and utilities; and
 - interest on mortgage obligations and interest on other debts incurred prior to receiving the PPP Loan.

- Borrowers will be eligible for loan forgiveness without being subject to taxation for the borrowed amount that is used, during the 8 week period following origination of the loan, to pay for the sum of the following expenses paid over the eight (8) week period immediately after the origination of the PPP Loan:
 - payroll costs;
 - interest on mortgage obligations;
 - rent obligations; and
 - utility payments.
- The amount of any forgiveness will be reduced to the extent that the business reduces its number of employees or reduces employees' compensation.
- Businesses that have already conducted lay-offs or reduced the compensation to their employees may be able to reverse such cuts and still qualify for loan forgiveness.
- The balance of a loan that remains following any loan forgiveness will have (i) a term of up to 10 years, (ii) an interest rate no greater than 4%, and (iii) an automatic payment deferral of all principal and interest for a minimum of six months and up to one year.
- Loans will have no up-front fees and no prepayment penalties.
- No personal guarantees or collateral requirements.

The recently-enacted Coronavirus Aid, Relief, and Economic Security Act expands small and midsize business' ability to utilize the Small Business Reorganization Act (the "SBRA") and efficiently and effectively reorganize through the Chapter 11 process. This Alert explains certain benefits of the SBRA, which are now available to a wider circle of businesses. [The Alert can be found here.](#)