Sustainable StrategiesDC

COVID-19 UPDATE: RESOURCES FOR LOCALITIES

MEMORANDUM

TO: Sustainable Strategies DC Clients & Colleagues

FROM: Matt Ward, Andy Seth, Ashley Badesch, Sarah Marin & Suzanne Kazar at Sustainable Strategies DC

DATE: March 27, 2020

SUBJECT: Federal Resources to Support Small Businesses

This memorandum provides helpful information on passed or proposed federal resources to support small businesses impacted by the coronavirus pandemic for local government to share with their business community members.

As communities continue to grapple with the novel coronavirus (COVID-19), small business owners are struggling to stay afloat and support their workers, as their hours of operation have been greatly reduced or they have closed their doors entirely. The result is considerable financial strain that is set to continue into the coming months. In response, multiple new and existing programs have been created or expanded to support businesses in response to this economic fallout. These measures include additional funding for low-interest and guaranteed loans, payroll and operating expense support for small businesses, tax and loan deferments and relief, loan assistance for distressed industries hardest hit by the coronavirus, and direct financial aid to families.

Sustainable Strategies DC has put this summary together to provide an overview of the federal resources available or soon to become available to support small businesses facing the impacts of COVID-19.

SUMMARY OF PROGRAMS IN THIS MEMO:

Resources Available Now:

- **SBA Economic Injury Disaster Loans:** Provides businesses of all sizes, private non-profit organizations, homeowners, and renters with working capital loans of up to $2 million that can provide vital economic support to help overcome the temporary loss of revenue they are experiencing.
- **SBA Express Bridge Loan Pilot Program:** Provides up to $25,000 with less paperwork to small businesses who currently have a relationship with an SBA Express Lender while waiting for decision and disbursement of Economic Injury Disaster Loans.
- **IRS People First Initiative:** Provides taxpayers relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions.

Resources Soon to Become Available:

- **Treasury Payroll Tax Credits (effective April 1):** Provides two new refundable payroll tax credits, designed to immediately and fully reimburse small and midsize employers (fewer than 500 employees), dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees.
- **Federal Reserve Main Street Business Lending Program:** This soon to be announced program will support lending to eligible small-and-medium sized businesses, complementing efforts by the SBA. However, program specifics have not yet been announced.
- **Treasury Exchange Stabilization Fund:** Provides $30 billion in equity to lending facilities to support the flow of credit to employers, consumers, and businesses by establishing new programs to guarantee money market mutual funds, extremely critical financial instruments to short-term liquidity in the market, until the end of the year.

Resources in the CARES Act (Enacted March 27):

- **Nearly $350 billion in SBA Paycheck Protection Program Loans:** Provides loans of up to 2.5 times the monthly payroll expenses of businesses and nonprofit organizations employing fewer than 500 people (where the loan amount is the lesser of $10 million or the sum of 2.5 times the average total monthly payroll costs for the prior year). This may include payroll support, employee salaries, mortgage payments, rent, utilities, and any other debt obligations incurred before the covered period. These loans are intended to be used as a partial revenue replacement program to get small businesses through this period of severe disruption without having to make drastic changes to their operating footprint.
- **Additional $500 billion in the Treasury Exchange Stabilization Fund:** Provides direct lending for loans, loan guarantees, and investments in support of the Federal Reserve's lending facilities to eligible businesses, states, and municipalities. Treasury will also implement a special lending facility targeted specifically at nonprofit organizations and businesses between 500 and 10,000 employees, subject to additional loan criteria and obligations.

DETAILED DESCRIPTIONS OF PROGRAMS:

SBA ECONOMIC INJURY DISASTER LOANS: Small businesses, private non-profit organizations, homeowners, and renters can secure up to $2 million, with loan amounts based on an assessment of actual economic injury, to help overcome the temporary loss of revenue they are experiencing as a direct result of the coronavirus. On Monday, March 23, the SBA also issued an automatic deferment on existing SBA Disaster Loans through December 31, 2020 to help borrowers still paying back SBA loans from previous disasters.

Eligibility:

Eligible applicants may include small businesses, small agricultural cooperatives, and most private nonprofit organizations. These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75% for small businesses. The interest rate for non-profits is 2.75%. Loans will be offered with long-term repayments of up to a maximum of 30 years.

How to apply:
Applicants are encouraged to apply online for a disaster loan. If you do not have access to a computer or smartphone, please call us at 1-800-659-2955 for assistance.

Key materials businesses will need to apply for an EIDL include:

- Employee Identification Number
- The date of establishment
- Number of years under current management
- Names and addresses of contacts for Loss Verification Inspection
- Personal information including birth dates, Social Security numbers, phone numbers and ownership percentages for each of the business' owners
- Additional information will need to be provided if any of the business' owners own a more than 50 percent stake in a different business
- Personal financial statements will need to be completed for each owner
- The value of cash, receivables, personal property
- The amount of debts
- The amount of liabilities that you are contingently liable for (i.e. what is the dollar value of loans that you guarantee)

SBA EXPRESS BRIDGE LOAN PILOT PROGRAM:

The Express Bridge loan program allows SBA Express lenders to provide expedited financing up to $25,000 to small businesses located in declared disaster areas. Express Bridge loans are intended to be interim loans. Businesses use these funds for disaster-related purposes while they apply for and await long-term financing.

Only lenders that were already participating in the SBA Express program at the time of the disaster can issue Express Bridge loans. These lenders may issue Express Bridge loans only to eligible small businesses that had an existing banking relationship with the lender at the time of the disaster. For the COVID-19 Emergency Declaration, EBL loan proceeds must be disbursed as working capital.

Lenders can issue Express Bridge loans up to six months after the disaster declaration. Lenders may require a borrower to pay down or pay off the Express Bridge loan if the borrower is approved for long-term disaster financing that may be used to reimburse the Express Bridge loan. The maximum Express Bridge Loan term is 7 years.

Eligibility:
To be eligible for an Express Bridge loan, a small business must be located, at the time of the disaster, in a county that has been declared as a disaster area, or any contiguous county. The loan must be used to support the survival and/or reopening of the small business within the affected county. Effective March 25, 2020, SBA provides expanded program eligibility to include small businesses nationwide adversely impacted under the Coronavirus Disease (COVID-19) Emergency Declaration issued by President Trump on March 13, 2020.

How to Apply:
You can find an Express Bridge Loan Lender via SBA's Lender Match Tool or by contacting your SBA District Office. Links to the required forms can be found beginning on page 11 of the Express Bridge Loan Pilot Program Guide.

TREASURY PAYROLL TAX CREDITS:

Under the Families First Coronavirus Response Act passed on March 18, employers with fewer than 500 employees may utilize funds (in the form of refundable payroll tax credits) to fully reimburse them, dollar-for-dollar, for the cost of providing leave to their employees in connection with the coronavirus pandemic related to employees' health condition or to provide care for family members.

How it works:

Employers may receive a refundable payroll tax reimbursement to cover the cost of employees receiving up to 80 hours of paid sick leave and expanded childcare leave when employees' children's schools are closed, or childcare providers are unavailable, due to COVID-19 related reasons. These credits are designed to provide 100% reimbursement for paid leave including health insurance costs. Employers face no tax liability and self-employed individuals will receive an equivalent credit.

Paid Sick Leave Credit:

- Eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to $511 per day and $5,110 in the aggregate, for a total of 10 days.
- Eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to $200 per day and $2,000 in the aggregate, for up to 10 days for an employee who is caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus.

Child Care Leave Credit:

- Eligible employers may receive a refundable childcare leave credit equal to two-thirds of the employee's regular pay, capped at $200 per day or $10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the child-care leave credit.
- May be used in addition to the Paid Sick Leave Credit

Under both the Paid Sick Leave Credit and Child Care Leave Credit eligible employers are also entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

For example, ff an eligible employer paid $5,000 in sick leave and is otherwise required to deposit $8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to $5,000 of the $8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining $3,000 on its next regular deposit date. If an eligible employer paid $10,000 in sick leave and was required to deposit $8,000 in taxes, the employer could use the entire $8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining $2,000.

Eligibility:

Eligible employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave under the act. Eligible employers will be able to claim these credits based on qualifying leave they provide between the effective date and Dec. 31, 2020.

Small Business Protection: Employers with fewer than 50 employees are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed or child care is unavailable in cases where the viability of the business is threatened.

How to use:

To take immediate advantage of the paid leave credits, businesses can retain and access funds that they would otherwise pay to the IRS in payroll taxes. If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that will be released next week.

Additional guidance should become available on the IRS coronavirus webpage within the coming week.

Employers of all sizes must post a notice of the new Families First Coronavirus Response Act (FFCRA) requirements in a conspicuous place on its premises. An employer may satisfy this requirement by emailing or direct mailing this notice to employees or posting this notice on an employee information internal or external website. This poster can be found as a pdf attached. Additional FAQs for the program can be found here.

IRS People First Initiative:

On March 25, the IRS announced its new "People First Initiative" (PFI). The PFI includes changes to audit and collection procedures, effective beginning April 1 and running through July 15, to assist taxpayers by providing relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions.

Highlights of the PFI:

Installment Agreements:

- ***Existing installment agreements:*** For taxpayers under an existing installment agreement, payments due between April 1 and July 15 are suspended. Those who currently are unable to comply with the terms of an installment payment agreement, including a direct deposit installment agreement, may suspend payments during this period if they prefer. The IRS will not default any installment agreements during this time, although interest will continue to accrue on any unpaid balances, as required by law.
- ***New installment agreements:*** The IRS is encouraging taxpayers who are unable to fully pay their federal taxes that they can resolve their outstanding liabilities by entering into a monthly payment agreement.

Offers in Compromise (OIC)

- ***Pending OIC applications:*** The IRS will allow taxpayers until July 15 to provide requested additional information to support a pending OIC. The IRS also will not close any pending OIC requests before July 15 without the taxpayer's consent.
- ***OIC payments:*** Taxpayers may suspend all payments on accepted OICs until July 15, although interest will continue to accrue.

- ***Delinquent tax return filings:*** The IRS will not default an OIC for taxpayers who are delinquent in filing their tax returns for the 2018 tax year, although taxpayers should file any delinquent 2018 returns (and their 2019 returns) by July 15.
- ***New OIC applications:*** The IRS is encouraging people facing a liability exceeding their net worth to consider using the OIC process.

Non-Filers Encouraged to File. The IRS is encouraging people who have not yet filed returns for pre-2019 tax years to file any late returns. The IRS notes that more than 1 million households that have not filed tax returns during the last three years are owed refunds, and there is still time to claim those refunds.

Field Collection Activities Mostly Suspended. Liens and levies (including seizures of personal residences) initiated by IRS field revenue officers will be suspended from April 1 through July 15, although field officers will continue to pursue high-income non-filers and perform other similar activities as required.

Automated Liens and Levies Suspended. New automatic liens and levies will be suspended from April 1 through July 15.

Passport Certifications to the State Department Suspended. The IRS will suspend new certifications to the U.S. Department of State for "seriously delinquent" taxpayers from April 1 through July 15. Seriously delinquent taxpayers are those who have an unpaid federal tax debt (including interest and penalties) exceeding $53,000, for which all administrative remedies have been exhausted and which is not currently subject to a collection alternative (that is, an installment agreement or OIC). If a seriously delinquent tax debt has been certified to the State Department by the IRS, the taxpayer may be denied a passport. The IRS is encouraging these taxpayers to submit installment agreement or OIC requests during this time.

Private Debt Collection Referrals Suspended. The IRS will not forward new delinquent accounts to private collection agencies from April 1 through July 15.

Audits Restricted: From April 1 through July 15, the IRS generally will not start new field, office, or correspondence examinations, except where deemed necessary to preserve applicable statutes of limitations. The IRS will continue to process refund claims where possible, without in-person contact.

Earned Income Tax Credit and Wage Verification Requests: Taxpayers have until July 15 to respond to the IRS to verify that they qualify for the EITC or to verify their income. Taxpayers who are unable to do so should reach out to the IRS indicating the reason why that information is unavailable. Until July 15, the IRS will not deny these credits for a failure to provide the requested information.

The IRS is encouraging taxpayers to respond to any other IRS correspondence requesting additional information during the examination suspension period, as possible.

More information on the People First Initiative can be found on the IRS website here.

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▸ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to $511 daily and $5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to $200 daily and $2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to $200 daily and $12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▸ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▸ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

▸ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd

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