



WEBINAR: CARES ACT OVERVIEW FOR THE OREGON WINE INDUSTRY ATTENDEE Q&A

APRIL 9, 2020

1. How do we respond to employees who want to stay on unemployment to receive the \$600 per week extra benefit for 4 months?

Answer: The answer below is sourced from Irvine & Companies 4/10/20 newsletter/update.

Pandemic Emergency Unemployment Compensation (PEUC)

The federal government is enriching the state unemployment system in the following ways:

- A \$600 addition to the weekly unemployment benefits (as soon as the states have implemented).
- Providing an additional 13 weeks of state unemployment insurance benefits, available after the employee has exhausted all their regular unemployment benefits.
- To be eligible, employees must be actively engaged in searching for work, however, states can provide flexibility in the criteria in cases due to illness, quarantine, or movement restrictions.
- It also offers jobless benefits to previously ineligible groups, which include self-employed individuals. These workers are eligible to receive half their state's average weekly unemployment benefit in addition to the new \$600 a week benefit. However, at this time many states are still in the process of implementing benefits for these newly added groups.
- We've included links to Oregon and Washington's COVID 19 unemployment pages here:
 - [Oregon COVID-19 Unemployment Insurance Benefits](#)

2. Where can we find the summary on the DWT website?

Answer: Attached is the [link to the DWT website](#) that summarizes the CARES Act.

3. Are you aware of anyone who has actually received the EIDL advance funds?

Answer: As of the call, 4/9/20, we are not aware of anyone who has received EIDL funds. The SBA website states "The Economic Injury Disaster Loan advance funds will be made available within days of a successful application, and this loan advance will not have to be repaid."

4. We have not received the \$10k advance yet after over a week. What should we do?

Answer: The SBA website states "The Economic Injury Disaster Loan advance funds will be made available within days of a successful application, and this loan advance will not have to be repaid." We have heard from other industry members that SBA that are up to 3 weeks out in approving submitted applications.

5. The SBA has clarified that the advance is within 3 days of approval of submitted application.

Answer: The SBA website states "The Economic Injury Disaster Loan advance funds will be made available within days of a successful application, and this loan advance will not have to be repaid." As we understand it, the SBA is about 3 weeks out in approving submitted applications.

6. If we already applied for the EIDL loan and haven't heard back, should we assume we didn't get it?

Answer: You should confirm and maintain the confirmation number you received upon completion of the EIDL. We have also learned, through other industry members, that if you received a confirmation number upon completion of your application that begins with a "3", you have used the correct application and your application is in process. As we understand it, the SBA is about 3 weeks out in approving submitted applications.

7. I heard that the EIDL forgivable grant is based on number of employees @ \$1k per employee, not a flat \$10k for every business.

Answer: There have been statements on other calls and in the media that indicate the forgivable grant is based on number of employees at \$1k per employee rather than the \$10k per business. It seems that the SBA may have made a unilateral decision to apply the per employee limit to stem the outflow and spread benefits. This limit does not comply with the original spirit and intent of the ACT. We think there will be further debate about this issue.

8. We applied for the EIDL program through the SBA website last week and have not received any acknowledgment that our application was received, nor have we received funding. Should we be contacting a specific SBA lender like we did for the PPP versus the SBA office?

Answer: You should confirm and maintain the confirmation number you received upon completion of the EIDL. We have also learned, through other industry members, that if you received a confirmation number upon completion of your application that begins with a “3”, you have used the correct application and your application is in process. As we understand it, the SBA is about 3 weeks out in approving submitted applications.

9. Will the SBA notify if they don't approve your application for an EIDL?

Answer: We have not been able to find a definitive answer to this question.

10. What if you are approved for the PPP and later are approved for and EIDL?

Answer: (Sourced from Treasury.GOV FAQ) Yes, the Paycheck Protection Program (PPP) can be used in coordination with other COVID-financing assistance established in the bill or any other existing SBA loan program. Borrowers who already have existing, or apply for new SBA 7(a), 504, or microloans, will also be able to apply for a PPP loan. A business that receives an Economic Injury Disaster Loan (EIDL) between January 31, 2020 and June 30, 2020 as a result of a COVID-19 disaster declaration is eligible to apply for a PPP loan, or the business may refinance their EIDL into a PPP loan. In either case, the emergency EIDL grant award of up to \$10,000 would be subtracted from the amount forgiven in the payroll protection plan.

11. Senator Wyden said on the news that he got the agricultural exemption removed (because of the Oregon wine industry). True?

Answer: (Source: OWB Special Alert on 4/8/20) Senator Wyden was in touch April 3 by conference call with leaders in Oregon’s ag. sector including Rogue Valley winemaker Eric Weisinger. Eric expressed his concern about the EIDL program and language in the application that seems to make many farmers and agricultural businesses ineligible for Economic Injury Disaster assistance. Shortly after that call, both Oregon senators released this [joint press announcement](#) committing to correcting that agricultural exclusion.

12. I am exclusively a Grape grower, do you think they will eventually open the EIDL to include Agriculture?

Answer: At the request of the Oregon Winegrowers Association and other agriculture groups, Sens. Wyden & Merkley are working with SBA to correct the ag exclusion from EIDL loan eligibility as enhanced and expanded by the CARES Act. However the program is not yet open to agriculture. See their press announcement [here](#).

The Oregon Winegrowers Association is working diligently with Oregon’s Congressional Delegation and agriculture producer groups nationally to open up the EIDL program to agriculture. It was not the intent of Congress to exclude agriculture and we’re hopeful SBA will make a policy change. If not Congress could address this exclusion in an anticipated 4th coronavirus response bill.

13. Is it your understanding that the PPP is designed to keep people on the payroll even though they stay home due to, for example, the tasting room being closed? Or are people to come to work?

Answer: This is correct. The purpose of the PPP is to incent employers to keep their employees on their payrolls with associated benefits. It is in the businesses discretion how to manage their workforce. For example, with winery tasting rooms required to be closed to the public, many are providing curbside service of wine pickups and wine deliveries to the local area as a way to gainfully employ their tasting room staff.

Others are training their staffs to become more proficient at phone and on-line sales that can be managed from their homes or in their tasting rooms under the guidance of their “Social Distancing Officer.” These are individual business decisions.

14. Can guaranteed payments to owners be considered in the payroll calculation for PPP?

Answer: DWT indicated that this depends on how these payments are categorized and reported for tax purposes. Generally, owners, members or partnership draws are not included in the PPP calculation. If you are an S Corp, shareholder distributions will not be considered salary and therefore not included in the PPP calculation. Beyond that, this is a question that should be reviewed with the businesses accountants or attorneys with greater knowledge of the businesses organization.

15. My understanding was that if you re-hired people that were laid off or furloughed that you would still be able to get the full PPP loan amount.

Answer: (Sourced from Treasury.Gov FAQ) The Paycheck Protection Program will forgive up to eight weeks' worth of payroll obligations (including wages and benefits), plus rent or mortgage payments and utilities, and the amount forgiven would not be treated as taxable income to the small business owner. At least 75% of the forgiven amount must be used for payroll. Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease.

16. It's our understanding that the calculation for PPP is 2.5 times your payroll. It can be used for payroll expenses, with not more than 25% of that value being used for utilities, etc. NOT 2.5 times your payroll, PLUS utilities, etc.

Answer: Your understanding is correct. It is not elegantly stated in the answer in the FAQ above from Treasury.Gov.

17. Should we apply again since we applied a week ago and heard nothing back?

Answer: If you are referring to the EIDL program, as referenced above, you should confirm and maintain the confirmation number you received upon completion of the EIDL. We have also learned, through other industry members, that if you received a confirmation number upon completion of your application that begins with a “3”, you have used the correct application and your application is in process. As we understand it, the SBA is about 3 weeks out in approving submitted applications.

If you are referring to the PPP, contact your banker directly to receive an update on their process and expected time frames. We understand that most banks have received thousands, if not ten of thousands of applications from their customers and that is very likely the reason you have not heard back.

18. I am a winegrower (ag, for sure) and I keep seeing that the EIDL loans are not applicable to vineyard owners. I am the only employee of this enterprise and I contract out all of my vineyard services. What is the situation with this? Does this mean that I will not be able to get an EIDL loan (I don't qualify for the PPP), even though my vineyard expenses are significant?

Answer: At the request of the Oregon Winegrowers Association and other agriculture groups, Sens. Wyden & Merkley are working with SBA to correct the ag exclusion from EIDL loan eligibility as enhanced and expanded by the CARES Act. However the program is not yet open to agriculture. See their press announcement [here](#).

The Oregon Winegrowers Association is working diligently with Oregon's Congressional Delegation and agriculture producer groups nationally to open up the EIDL program to agriculture. It was not the intent of Congress to exclude agriculture and we're hopeful SBA will make a policy change. If not Congress could address this exclusion in an anticipated 4th coronavirus response bill.

19. The ppt originally said we could apply for our gig workers we pay directly. Now it seems to say they have to apply directly. Any guidance?



Answer: As we understand it, W2 employees qualify for your business's PPP payroll calculation. If your "gig workers" are paid and reported via 1099, they would apply for PPP themselves and would not be calculated in to your company's PPP payroll calculation.

20. I see on the PPP calculation form that Employer Paid Payroll Taxes are included. Is that correct? I read in the SBA rules that Federal payroll taxes were not eligible for calculation.

Answer: There is nuance to the Payroll Tax issue. The taxes an employer deducts from a paycheck and remits to the government are included. The employers matching contributions are not included.

21. Are people receiving the \$10,000 from the EIDL in 3 days as originally promised before being informed if you qualify for the SBA loan in 3 weeks?

Answer: The feedback we are receiving does not indicate that the original timelines are being met

22. How do you answer EIDL application questions about type of business when you are both a winery and vineyard and tasting room?

Answer: The successful path has been to consider the business entity as a manufacturer or hospitality business

23. We lease a vineyard with an FSA micro loan that is essentially guaranteed with grape sales contracts, many of which will not come to fruition this year. Do you foresee anything coming down the pipe to help protect growers who are already leveraged and may not be able to meet their existing loan term?

Answer: The Federal Reserve has been explicit to banks in the desire for accommodating the needs of borrowers. Specifically the banks have been informed that deferral of loan payments will be tolerated and not count against a bank's financial audit. The recommended practice is to contact your banker and explore what accommodations can be offered.

24. If a business has an LOC, are they excluded from the CARES resources?

Answer: Lending under the EIDL specifically eliminates the traditional SBA "lender of last resort" provision.

25. Do payments made to an independent contractor for vineyard labor each year qualify payroll protection?

Answer: The current guidance is you should exclude contractor payments from your PPP calculation. Independent contractors can apply for PPP's separately. This does lead to an interesting dilemma, the independent contractor who receives a 1099 from you should really only file for lost wages. You who are paying them can't claim the expense as payroll. Many see the conflict and further refined guidance is anticipated.

26. What are the dates of the 8-week period for PPP expenditures?

Answer: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.

27. People have suggested opening a new bank account to place and disburse PPP funds in order to make records clear. If we use a payroll processor, would documentation from them regarding our payroll be sufficient to show the amount we spent on payroll?

Answer: SBA guidance on loan forgiveness has not been issued. It is anticipated that many forms of documentation will meet the eventual standards.

28. Is there a provision under the EIDL or PPP program that requires a borrower to exhaust all other available funds before accessing the loans? eg: a line of credit

Answer: That requirement was specifically removed from standard SBA lending policy.



29. Does one have demonstrate that employees will be laid off but for the loan? Or, show economic harm to business?

Answer: No

30. How will we be required to prove that we used it for payroll? Are statements from payroll software acceptable?

Answer: SBA guidance on loan forgiveness has not been issued. It is anticipated that many forms of documentation will meet the eventual standards.

31. I've heard that the \$10,000 EIDL grant reduces the forgivable portion of the PPP. Can you please confirm/deny this?

Answer: Because the EIDL's accelerated distribution of \$10,000 is a grant and in essence "forgiven", counting those funds against a PPP forgivable amount is designed to prevent double dipping in forgiveness.

If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the Emergency Economic Injury Grant Program would be subtracted from the amount forgiven in the PPP.

32. Is it the understanding that the PPP is to be used to pay people who have to stay home if your business is closed by the Gov?

Answer: Your business being closed is not a threshold issue, nor is the need to stay home. It's really based on the impact of Covid-19 in your ability to maintain people on your payroll

33. I need labor services now for the vineyard. My contractor lacks the sophistication to complete the paper work. Any chance I could qualify for reimbursement for monies advanced over the next month or two?

Answer: Neither the PPP or EIDL seems to provide a path to presently solve your issue. Fixes are being proposed and studied to expand the EIDL to agriculture. In addition the USDA has been granted funds, but has yet to provide information on programs. We are monitoring developments.

34. With the complete "unknown" of how long either of these options will take to process and fund into our account, would it be reasonable to assume that if we applied for both EIDL and PPP that we could use the EIDL advance to pay for a payroll run or two before the PPP would land into the account and start the 8 week timeframe?

Answer: Yes

35. Regarding the EIDL forgivable uses: I've seen "the EIDL grant can be used for paid sick leave, payroll, increased costs, rent or mortgage payments, or repaying obligations that cannot be met due to revenue losses." — can you speak to the "increased costs and repaying obligations that cannot be met due to revenue losses"?

Answer: Several times the lawyers have confirmed that an inability to pay your Accounts Payable qualifies. Permissible covered expenses appear.

36. Little confused here. If I'm a single owner LLC and pay myself a salary, paying employment taxes, etc, I'm not about to get relief for lost wages under the PPP?

Answer: The PPP does provide an avenue for sole proprietors and independent contractors to file for the program.