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Action A Small Business Owner Can Take - Covid-19

Our Ear To The Tracks For You

Many Business Owners have reached out to us seeking information on ideas and any government support or incentives to help them survive this pandemic quarantine.

As we get definitive updates from our bureaus we will put out additional releases to you.

The next few months will be a challenging time for many businesses, ours included.

We are starting to get glimpses of how this pandemic might affect the economy over the coming months. Because we work with businesses across many industries, we are in a unique position to see how companies are adapting to face these new economic uncertainties.

We are already thinking about how we can adapt, evolve, and do what needs to be done to keep our business pumping during these times. A big part of that will mean us doing our best in helping you, our clients, through this unprecedented business cycle.

Actions & Considerations

- Conserve cash
- Create a fresh re-thought budget/cash flow projection for the next 9 months
- Consider lay-off of non-essential people
- Eliminate overtime
- Cut costs (i.e. if everyone working from home, cut out water cooler/coffee service, etc.)
- Re-finance
- Explore SBA disaster loans
- Look into the Chicago Small Business Resiliency Loan Fund

- Check on your business interruption insurance (often insurer has an escape clause for public health situations)
- Communicate with your advisors to capture stimulus incentives
- Take advantage of the tax payment deferral to July 15, 2020
- Talk to your landlord about a rent reduction or deferment (some leases have a force majeure clause/acts of God that provide a rent abatement)
- Consider an extension of your lease if they will provide several months of free rent
- Stop paying the owners, spouses & children on payroll and only take out money required via a shareholder distribution
- Consider increasing or ceasing contributing to your 401(k), IRAs & taxable investments for the immediate future (discuss this with your Wealth Advisor before you act)
- Reach out to your bank and request a deferment of your loan payment – banks can offer complete deferments or interest only periods for 60-90 days
- Do not pay any additional income tax payments at this time (pay payroll tax as you always have). This means any balance due from the 2019 tax year and your first quarter 2020 estimated tax. A tax projection should be completed at a later date and any amounts due for 2020 can be paid via payroll withholding without penalty

What You Should Know About Your Lease – source Julie Johnson Bradford Allen Law

The general consensus among leasing lawyers seems to be that tenants should continue to pay rent if they can. The landlord could otherwise pursue any assets the business might have, as well as any assets a guarantor of the lease might have.

The following is a summary of some of the general legal principles and practical questions that should be considered:

1. Continuing Liability. Just because you temporarily close your doors, or even shut down permanently, does not relieve you from liability under your lease. The landlord still has the right to exercise all of its remedies under the lease. So the landlord can still sue the tenant* to collect all past due and future rent under the lease, and if the business has assets, the landlord can go to court to seize those assets and sell them to cover all unpaid rent.

2. Guarantors. If your lease has a guarantor, remember that even if your business closes and has no assets for the landlord to pursue, your guarantor will remain fully liable under its guaranty. This means that guarantors should be consulted before any action is taken, since they might bear some or all of the costs of defaulting on the lease.

3. Rent Abatements and Lease Terminations. Depending on the terms of the lease, particularly those governing force majeure, casualty and condemnation (but any particular lease might contain other relevant provisions), tenants might be entitled to receive a full or partial rent abatement. There are also several legal theories that might permit these results despite the actual wording of the lease. Since a pandemic is a novel situation, though, that few (if any) leases specifically contemplated, no one can predict how the courts will rule on these theories. Keep in mind that a release of liability is typically in cases of Landlord negligence and/or Default, which is not the case here.

4. Rent Defaults. If a tenant ultimately decides to, or has to, stop paying rent, many leases do not provide a cure period, although under the circumstances landlords are likely to provide one

anyway. Regardless, if the rent isn't paid, at some point the landlord is likely to deliver a formal notice terminating the lease and demanding that the tenant surrender the space and pay all damages provided in the lease. If this occurs, the tenant should immediately notify its counsel, who should file for an injunction, which might allow the tenant to cure the default after everything is sorted out. Even though evictions have been temporarily stayed, ignoring action by a landlord and assuming that you will be protected because of the extraordinary situation would be a serious mistake.

5. Business Interruption Insurance. Insurance experts are advising that business interruption insurance is not likely to provide relief, since most policies disclaim liability for loss of business due to public health situations and almost all policies require that the cause of the lost income is directly attributable to physical loss or damage. In a very new development, however, some states are apparently considering legislation that would add loss of income due to COVID-19 as a covered loss under certain insurance policies, regardless of the terms of the policy. Whether the law will be passed, and whether the courts would uphold it, are questions no one can answer. But if it works in one state, it is possible that other states may follow suit.

6. Governmental Relief. A number of Federal, State and local relief programs are available to small and mid-sized businesses, ranging from low- to no-interest loans and outright grants, and more are likely to become available over the coming weeks. Businesses should not hesitate to take advantage of them

More On SBA Disaster Loan

Borrowers apply directly to the SBA. If approved, this loan would be funded directly by the SBA. No banks are involved with this process.

You can apply directly through the SBA for Disaster Relief at:

<https://disasterloan.sba.gov/ela/LoanApplication/StartApplication>

We have included some notes on the program below:

- The U.S. Small Business Administration is offering designated states and territories low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19). Upon a request received from a state's or territory's Governor, SBA will issue under its own authority, as provided by the Coronavirus Preparedness and Response Supplemental Appropriations Act that was recently signed by the President, an Economic Injury Disaster Loan declaration.
- 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%.
- SBA offers loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower's ability to repay.

- Please note that existing SBA 7a loan borrowers may be eligible for loan modifications to interest only or deferred payments for up to 6 months. A bank would need to approve any modifications.
- Please note that no other programs or assistance has been approved as of this date.