

This Month:

- Canada Emergency Business Account ("CEBA")- Update
 - Owner-Managed Business-Creditor Proofing

Canada Emergency Business Account ("CEBA") - Update

On June 15th the federal government released details on the process to apply for the CEBA loan based on the expanded eligibility criteria announced in May. (Please refer to our June Smallbiz Builder for some background information on this program). Previously, a business needed to have a minimum of \$20 000 salaries on its T4 Summary for 2019 to qualify for the loan – known as the "payroll stream". The **new criteria, known as the "non-deferrable expenses stream"** will allow the following types of businesses to qualify:

- sole proprietors receiving income directly from their businesses, or
- businesses that pay independent contractors rather than employees, or
- family-owned corporations that pay employees through dividends rather than payroll.

Under the "non-deferrable expenses stream" applicants would need:

- a business account at their financial institution,
- a CRA business number, and to have filed a 2018 and 2019 tax return, and
- eligible non-deferrable expenses between \$40 000 and \$1.5 M

The application will be a 2-step process.

Step 1: Businesses will initiate applications directly at their primary financial institution where they hold their primary business checking / operating account.

Step 2: Following the initial application through the financial institution, applicants will be directed to a CEBA website to provide supporting documentation of the 2020 Eligible Non-Deferrable Expenses and to complete the application.

The Government of Canada will assess application information submitted via financial institutions in Step 1 together with the supporting documentation and information provided in Step 2. If successful, the Government of Canada will notify your financial institution and provide funding for your CEBA loan.

Non-deferrable costs include salaries, rent, insurance, property taxes, utilities, payments for regularly scheduled debt service and contractual payments to independent contractors. These costs should be adjusted to take into account other Government of Canada COVID programs such as the Canada Emergency Wage Subsidy, the 10% Temporary Wage Subsidy, the Canada Emergency Commercial Rent Assistance, Regional Relief and Recovery Fund, and Futurpreneur programs.

Once you have applied at your primary financial institution, uploaded all necessary supporting documents, and if pre-funding eligibility validation is successful, you should expect to receive funding within 10-15 business days.

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Owner-Managed Business-Creditor Proofing

Every business owner should be concerned about creditor proofing his assets. Consider these suggestions:

Transfer assets out of the company

- Place capital assets in a separate holding corporation so that subsequent legal claims that arise in the operating company do not affect these assets.
- Lease the assets in the holding corporation back to the operating company. It may be easier to sell the operating company in the future.
- Protect cash assets from potential claims. Pay tax-free dividends from the operating company to the holding company regularly.
- Establish a retirement compensation arrangement (RCA). This removes funds from the corporation as a tax-deductible expense and places the cash into a creditor-protected Trust.

Secure the business owner's assets

- Secure the shareholder loans by establishing a general security arrangement to provide the shareholder priority over all unsecured creditors.
- Transfer assets to the lower risk spouse on a roll-over basis for tax purposes. If there were a future marriage breakup, this type of property would usually be equally divided between the spouses under the provincial family legislation, regardless of who owns title.
- An estate freeze would transfer the future growth of the assets to other family members.
- Transfer the assets into a Discretionary Family Trust to protect them from creditors. A Discretionary Family Trust permits the transferor to retain control over the assets. This would produce a taxable disposition unless the transfer is to a qualifying Spousal Trust or a Joint Partner Trust or an Alter ego trust.

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Padgett Business Services is dedicated to meeting the tax, government compliance, profit & financial reporting and payroll needs of businesses with fewer than 20 employees in the retail and service sector of the economy. This publication suggests general business planning concepts that may be appropriate in certain situations. It is designed to provide complete and accurate information to the reader. However, because of the complexities of the tax law and the necessity of determining whether the material discussed herein is appropriate to your business, it is important you seek advice from your Padgett office before implementing any of the concepts suggested in this newsletter.