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An EIDL Loan Sent to Treasury Can Come Back to the SBA. Here's How Frost Law Made That Happen to Help Businesses

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For businesses with COVID-19 Economic Injury Disaster Loans (EIDL) sent to the Treasury Department for collection, they may have been told there's no way back to the friendlier SBA process. That's not always true.

Frost Law attorneys have successfully gotten five EIDL loans recalled from Treasury back to the Small Business Administration, with more pending confirmation. In each instance, the recall came down to specific, provable issues being highlighted by the Frost team: **The government didn't follow its own required process before referring the loan into Treasury's stringent collection operation.**

Businesses with an EIDL loan currently in collection status, or those who have received a garnishment or offset notice, shouldn't assume the door to get help has closed. Read on to see how these recalls happened and what can be done for those facing the same situation.

For people with problems with EIDL loans or who have seen their loans transferred to Treasury, the Frost Law team may be able to help. Contact our team to schedule a consultation at **(410) 497-5947**.

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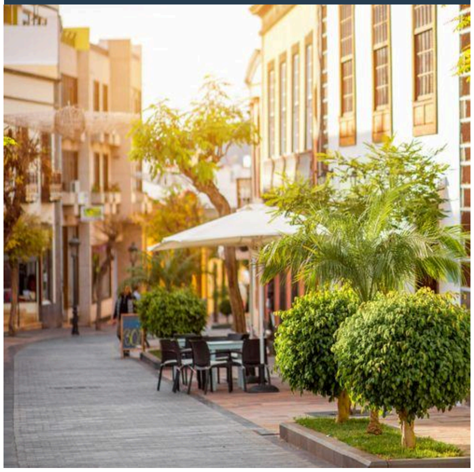

Why Nearly Half a Million EIDL Loans Just Hit Treasury

For several years, the SBA operated under a temporary waiver that let it keep servicing defaulted COVID EIDL loans, rather than transferring them to Treasury for collection. That waiver expired at the end of March 2026. Referrals to Treasury's Cross-Servicing collections program have accelerated sharply ever since with nearly 500,000 delinquent loans and over $22 billion moved into collections in a matter of months. A smaller number of cases, generally those involving fraud or misrepresentation, went to the Department of Justice instead.

Once a loan lands at Treasury, the SBA ends its involvement. Treasury takes over as the debt collector and can use an aggressive set of tools, including wage garnishment, benefit offsets, and tax refund seizures. All these collection tools can be used without a court order. Treasury can even turn the debt over to a private-sector debt collector who has access to these same tools.

Can an EIDL Loan Actually Be Recalled From Treasury?

The government's official position is that a referred loan to Treasury cannot go back to an originating agency like SBA. In practice, that isn't always true. Recalls can be rare, but they happen. They tend to hinge on a provable defect: **Was proper notice actually given to the business before the loan was referred to Treasury collections?** Other defects may be involved, too, but they can be overlooked.

The question about proper notice to the business is easy to overlook. But the question should be asked if no due process notice was provided. Many borrowers treat the first "no" from a federal agency the way they might treat a denied insurance claim — as the final word.

To be clear, a loan recall to the originating agency is still the exception and not the rule. For most borrowers whose EIDL reaches Treasury, the loan stays there for collection. But "usually" and "always" are two very different outcomes, and that gap is where these businesses may have hope.

Recall isn't always the goal, either. In some cases, the more realistic outcome is getting a collection fee or penalty reversed, which happens during the recall process. If successful, a borrower can refinance and pay off only the original principal and interest and avoid paying the substantial collection fee or penalty. This is significant because when a loan goes to Treasury, a fee topping 30% of the original loan amount can be added.

Case Study: A Missing Notice Undoes a Treasury Referral

In one case, a small business's loan had already been handed to a private collector working on Treasury's behalf. At that point, officially, there is no path back to the SBA. But borrowers have a legal right to a due process notice before a loan is transferred to collections, and that notice must be sent properly and timely. But the notice was never sent, which became the basis of the challenge.

Challenging the lack of a proper notice can have an effect. Two loans were recalled back to the SBA, one within five weeks and another closer to five months.

Winning the recall was just one step in a longer process. To be serviced by the SBA after a recall, the loan must be brought current and kept current. One option to do this is to pay all missed payments in one big, lump sum very soon after the transfer is complete. That, however, is not always feasible. The SBA has been willing to work with borrowers with recalled loans through forbearance agreements, and that paperwork created its own challenges.

One draft forbearance agreement demanded proof of insurance on "all real estate collateral" despite there being no real estate pledged for that EIDL. To be clear, there was nothing in the SBA authorization, nothing in the security agreement, and nothing in the loan guarantee showing that any real estate was required and pledged as collateral. So, when drafting this forbearance agreement, the government failed to actually look at the loan documents and tailor the boilerplate forbearance agreement to that loan.

In the same agreement, the SBA also asked the borrower to fully reaffirm the debt and release all claims against the government – including claims tied to the exact notice failure that caused the wrongful referral in the first place. Getting access to the underlying agency file to evaluate whether the waiver and release was reasonable typically requires getting the entire SBA EIDL administrative file under a Freedom of Information Act (FOIA) request, which takes more time than a recalled borrower actually has to bring an EIDL current.

The takeaway: Forbearance terms are templates, not statutes, that can be changed to suit the situation. However, front-line agency SBA staff often can't modify them unilaterally, but that doesn't mean the terms are fixed. They can be escalated, challenged, and negotiated line by line. And SBA management can agree to changes if they choose.

Case Study: When a Government Error Compounds the Debt

In another matter, a business had been making its EIDL payments automatically for some time without issue, until the payments unexpectedly stopped processing without notice. This was through no apparent fault of the borrower. The borrower had money in the bank, but the drafts stopped being made for the payments. No default notice went out. The first sign of trouble was a debt transfer notice the borrower received stating the loan had already been sent to Treasury some time earlier. There was no forewarning from the SBA that the loan was delinquent, and there was no due process notice provided prior to the transfer.

From there, the loan balance grew more: Tens of thousands of dollars in administrative collection fees were added. This borrower's request for relief from those additions was denied. Then, through the Treasury Offset Program (TOP), the government intercepted federal payments to the business and applied them to the EIDL balance. This did not happen once but twice. Together, these seizures were enough to satisfy the entire balance plus the wrongfully assessed penalties.

What happened to this client raised a genuine legal question. Under 31 CFR § 285.5 (a federal regulation), certain federal payments are categorically excluded from this type of offset, regardless of whether the underlying debt is even valid. If that exclusion had been applied here as it should have, the offset itself appears to be improper and becomes a separate issue from whether the loan should have been referred to collections at all. This loan was eventually recalled, with no or little explanation. FOIA requests are now pending with both the SBA and Treasury to determine what happened in the file. And inquiries to the SBA on the status of this EIDL case remain unanswered.

Got an EIDL Garnishment Notice? Know These Numbers

If a collection notice has already arrived for an EIDL borrower, the deadlines and dollar caps matter as much as any legal argument. Here are some important time frames for delinquent borrowers to keep in mind:

- **30 days' written notice** is required before wage garnishment can begin under an administrative wage garnishment.
- **60 days' notice** is required before a Treasury offset against a federal payment, such as a Social Security payment, can begin.
- **15 business days** is generally the window to request a hearing in writing once a notice is received. It passes quickly, and it's why so many borrowers miss it. Some clients report receiving no notice at all before

garnishment started.

- **An in-person appearance usually isn't required.** Written submissions, and sometimes video or phone hearings, are options instead of an oral hearing when challenging certain collection actions.
- **There are hard caps on what can be taken.** Wage garnishment is capped at the lesser of 15% of disposable pay or the amount above 30 times the federal minimum wage. Social Security offsets are capped at the lesser of 15% or the amount above $750 a month.

Receive An EIDL Letter? Don't Wait. When these notices arrive, don't ignore them, and don't assume the deadline will wait. Businesses should gather every notice, letter, email, and communication between the borrower and the SBA; then pull together the payment record; and line up the dates. It's important to make sure due process rights were not violated. **In both cases above, that paper trail created the entire case to show that the government did things wrong.**

Borrowers also have rights that exist before the government collects, including the right to inspect the agency's own records, the right to request a repayment agreement, and the right to a hearing. These rights are your due process rights when invoked on time in cases.
For background on how these loans work and other relief options, see our **SBA Loan Debt Relief: EIDL & PPP** practice page.

If you have an EIDL loan currently at Treasury, have received a garnishment or offset notice or have other questions, contact our team to schedule a consultation: **(410) 497-5947**.

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