



BUSINESS INTERRUPTION INSURANCE CLAIMS: NUTS & BOLTS

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Every business is thinking about business interruption insurance given the COVID-19 pandemic. Business interruption insurance is not the only potential coverage for business owners; other potentially applicable coverage provisions include contingent business interruption, extra expense, civil authority, and event and other cancellations. Because these other coverages may exist, as do/will government relief, it is critical to review all portfolio policies, promptly notify your insurance carrier (typically through your agent), and *properly document your losses and establish claims procedures*. The rest of this supplement to last week's article, Business Interruption Insurance Coverage For COVID-19 Losses, focuses on the latter.

Claim Considerations

- Immediately capture and track, and continue to do so, information critical to a claim. This should be structured as a narrative with timelines and connected documents (e.g., government orders, employee COVID-19 illness or suspected illness, third-party business communications, new employee policies and communications, etc.).
- Assemble a team to capture and track, plus advise on, claim structure and the submission of supplemental information – insurance professionals, internal finance, operations, risk managers, HR, accounting and legal. The team should assemble and track essential financial information and costs and classify the loss consistent with available coverages.
- If the claim is processed (not simply denied), you will need to identify an adjuster and other key contacts, track and record submissions (avoid duplication), and obtain carrier guidance (written, preferably) on what documents and information it requires, including scheduling any inspections/meetings (including on line meeting solutions).
- A well-documented claim, even if supplemented, should have a comprehensive summary of the loss, its grounds, etc. and

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proper support to establish the loss within the policy provisions.

Tracking and Supplementing Essential Information

- Establish classifications, accounts, and sub-accounts in your accounting programs working with the team to track COVID-19 costs. The types of information to capture and track include:
 - Existing financial information – both revenues and costs, including average monthly payroll for prior year, tax returns from prior years, projections for 2020, customer specific forecasts, such as suppliers for restaurants, raw materials from key vendors, and cancelled event planning forecasts.
 - Identify new sources of revenue and any additional expenses associated with that revenue.
 - Costs associated with employees working from home, laid off/fired, or furloughed, plus remediation, precautionary and mitigation efforts. Include other or additional benefits paid or undertakings to help employees in this uncertain time.
 - Third-party liability claims that may arise and the nature of associated costs.
- Make sure your team understands and has a plan for this work.

More Specific Costs to Track

- Extra Expenses – costs in excess of normal operating expenses incurred to continue operations during the loss period.
- Expenses to reduce loss – mitigation expenses.
- Expenses for the loss of perishables, including spoiled inventory or raw materials.
- Lost business, orders, canceled events, advertising, contracts, notices of parties unable or unwilling to perform under existing contracts, and similar events.
- Costs to preserve property, including precautionary, which includes decontamination, cleaning, securing, and remediating property. Also, “saved” costs, such as savings due to changes to plans or policies that reduce the expense associated with a business activity.
- Additional discounts, price reductions, credits, or similar concessions.
- Employee costs, of all natures, that tie out to the effects of COVID-19, including paid leave, costs of working from home or other relocations, mandatory benefits and any subsidies.

The foregoing outline should help business owners of all varieties better understand what they need to do to properly document claims for coverage and/or government relief programs – and for any future or related litigation that might ensue depending on the circumstances. It can't be emphasized enough that each claim is different – due to different insurance policy provisions, different factual circumstances giving rise to the claims (e.g., infiltration, presence of disease, remediation, shelter-in-place, business closure and other government action, etc.), and the nature and operations of the business. In all cases early establishment of the elements of handling business interruption insurance claims, of whatever nature, *prompt notice* to carriers and government relief agencies, and proper documentation of losses are critical.