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TAXATION OF STIMULUS PROGRAMS

At the inception of the Covid-19 stay-at-home orders, we heard from clients whose business activities decreased or operations ceased overnight. To help we worked diligently with them to secure Paycheck Protection Program (PPP) loans. The allure at the inception of these loans was eligibility for loan forgiveness if the proceeds were used on qualified business expenses, and the loan forgiveness amount was marketed as non-taxable.

A month after the PPP program was implemented, the IRS issued Notice 2020-32 which prohibited a tax deduction for expenses paid with PPP funds. As an example of the effect, if a corporation received a $1,000,000 forgivable PPP loan, the money would not be included in its taxable income for 2020. However, to gain forgiveness, the corporation would have spent those monies on $1,000,000 of expenses the IRS declared it now cannot deduct. At a blended 30% tax rate the impact is $300,000 of tax payable that business may not have planned on when it initially received its PPP loan.

Subsequent to this IRS news, some positive changes were legislated. As of this date, to apply for loan forgiveness, 60 percent (down from 75 percent) of PPP proceeds must be used to cover payroll or specific benefits, including 401-K employer contributions and health insurance. The remainder of the business costs can include rent, mortgage interest, or utilities. These costs may be incurred any time within 24 weeks of the loan origination date.

For borrowers of less than $2 million, additional good news came regarding how the SBA will verify the borrowers' stated loan necessity. Per SBA FAQ #46, in consultation with the Department of the Treasury, "Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less that $2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith."

In addition to PPP loans, there are other ways to qualify for government funds or loans. These include the employee retention credit up to $5,000 per employee for companies that did not receive PPP funds. These are for wages paid between March 27 and December 31, 2020 if there is a significant decline of gross receipts of 50 percent or more due to adherence to government orders. Another example is the deferral of the employer portion of Social Security taxes at 50 percent to December 31, 2021 and 50 percent to December 31, 2022. Federal net operating loss carrybacks are now available for losses earned in tax years ending 2018, 2019, and 2020.

Regardless of the taxation aspects of these programs, many companies are grateful for government assistance received to carry them through these unprecedented times.

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