

# Payroll Protection Act Provisions of the Recently Signed COVID-Related Tax Relief Legislation

By Donna F. Hartl & John Waters

On Sunday, December 27, 2020, the President signed into law the Consolidated Appropriations Program, 2021 (“Act”). Within the Act there are a number of provisions that affect current and future Payroll Protection Act (“PPP”) loan provisions that we highlight here.

**Expense Deductibility is Finally Allowed.** In a much-anticipated clarification, the Act specifies that expenses paid with the proceeds of a PPP loan that is forgiven are in fact deductible. Prior IRS advice stated that was not the case. This allowance alone avoids the concern of many borrowers about losing much needed expenses for 2020 and potentially beyond. Additionally, the Act allows a basis step-up in ownership interests for tax exempt income from a forgiven PPP loan, also adding much needed relief to borrowers of flow-through entities who needed the additional basis.

**More Uses of PPP Loan Proceeds Added.** The Act adds certain operations expenses, property damage, supplier costs and worker protection equipment to allowed expenses in determining PPP loan forgiveness. Existing limitations and the requirement that 60% of the loan proceeds be used for payroll still apply.

**Deadline Extended.** The deadline to apply for an original, initial PPP loan has been extended through March 31, 2021. Rules have changed for the application as well with regard to covered period for qualification and affiliation rules.

**Farmers and Ranchers.** Rules for farmers and ranchers have been clarified.

**Forgiveness Application Process.** Changes were made to the processes for forgiveness applications. PPP borrowers for loans not exceeding \$150,000 only have to submit a one-page form. EIDL loan advances no longer reduce the forgiveness amount.

**Ability to Request Additional Loans.** Additional requests are allowed if the loan amount would have been different due to the new rules so long as the loan has not been forgiven as of the date the Act becomes law.

**Not Taken or Returned Monies.** Where the loan is not yet forgiven, the Act includes procedures for application for re-borrowing of returned monies, or for monies approved but not taken.

**Other Related PPP Provisions.** The Act widens the eligibility of certain tax-exempt entities to apply for a PPP loan and sets forth rules for certain borrowers to apply for a second round of PPP loans.

The foregoing reflects a brief overview of the PPP changes in the Act. For more information on these and other changes in the Act, please consult the following attorneys at Roetzel.

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