



## PAYCHECK PROTECTION PROGRAM UPDATES

*January 5, 2021*

The Small Business Administration (“SBA”) continues to provide guidance regarding the use and forgiveness standards for loans received through the Paycheck Protection Program (“PPP”). In addition, the recently passed stimulus law includes a second round of funding for the PPP.

### LOAN NECESSITY QUESTIONNAIRE

The SBA published a PPP Loan Necessity Questionnaire (Form 3509 for For-Profit Borrowers and Form 3510 for Non-Profit Borrowers). The purpose of the form is to assist the SBA loan reviewers in evaluating the good-faith certification on the initial application that economic uncertainty made the loan request necessary. The form is applicable to borrowers that received funds with an original principal amount of at least \$2 million. The Loan Necessity Questionnaire asks for supplemental information related to the business activity and liquidity of the business, primarily during the borrower’s covered period.

### PPP TAX TREATMENT

The recently enacted stimulus law revises the tax treatment of PPP loans. Now, PPP loan expenses can be deducted, and forgiven amounts of the PPP are not included as gross income. In addition, for borrowers that are partnerships or S corporations, the law includes new tax rules, including that forgiven amounts are treated as tax-exempt income.

### ADDITIONAL PPP FUNDS

\$325 billion in the recent stimulus law have been allotted to provide additional assistance to the hardest-hit small businesses, nonprofits, and venues, including funding for a second round of forgivable loans through the PPP. The PPP “second draw” is available for small businesses that have no more than 300 employees and have at least a 25% reduction in gross revenues between comparable quarters in 2019 and 2020. The maximum loan amount is 2.5 times the average monthly payroll costs, in an amount up to \$2 million. The loan is eligible for forgiveness if at least 60% of the loan is spent on payroll costs over the covered period. While many of the rules from the first round of the PPP still apply, the law expands permissible uses of the PPP loan proceeds and expands the loan to certain additional entity types. Borrowers that received a first round of the PPP loan and meet all eligibility criteria may apply for a second loan.

## SIMPLIFIED FORGIVENESS PROCESS

For PPP loans up to \$150,000, the SBA is following a simplified forgiveness process. The loan shall be forgiven if the borrower signs a certification providing a description of the number of employees that the borrower was able to retain because of the covered loan, the estimated amount of the loan spent on payroll costs, and the total loan value. The borrower must also attest that it accurately provided the forgiveness certification and complied with all requirements.

The SBA published an updated version of the loan application and forgiveness application on December 31, 2020. During the coming weeks, we expect the SBA to clarify any outstanding questions regarding the process and to publish the forgiveness certification for loans up to \$150,000.

Please contact a member of Hancock Daniel's [COVID-19 Task Force](#) if you have any questions.

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