



## HAYASHI | WAYLAND

May 15<sup>th</sup>, 2020

To Our Valued Clients and Friends:

It's been about two months since we sent out our first Eblast to you with information relating to the COVID-19 crisis and its financial impact on individuals, businesses and other organizations we serve. Since then we have updated you at least weekly as the ever-changing landscape of this crisis unfolded. We continue to hear back from many of you with questions and words of appreciation for the information we have been sending out. We are grateful for your feedback. Keep it coming! We will continue to work hard to stay in front of the relevant issues that we believe affect you. Here is the latest:

### **Paycheck Protection Program (PPP) Safe Harbor Guidance for Loans Under \$2,000,000**

The CARES Act created the Paycheck Protection Program (PPP) which allows small businesses to receive a loan of up to two and a half times their average monthly payroll costs for the prior year. The CARES Act provided that in order to be eligible for the loan, the business must certify, among other things, that the "uncertainty of the current economic conditions makes necessary the loan request to support the ongoing operations" of the business.

The U.S Small Business Administration (SBA) subsequently issued guidance that required borrowers to take into account current business activities and their ability to access other sources of liquidity in determining whether the loan was necessary, and provided a safe harbor for borrowers to return the loan proceeds prior to May 18<sup>th</sup> if they were unable to support their certification on the loan application. This guidance from the SBA significantly muddied the waters for many borrowers who were left wondering if the loan was in fact necessary and if they would face civil and even criminal prosecution for applying for and receiving a PPP loan.

In a dramatic turn of events, the SBA released FAQ #46 on May 13th which provided that the SBA will take the position that businesses who received under \$2,000,000 in PPP loan proceeds are presumed to have met the necessity requirements. This new guidance appears to provide much needed relief to small businesses that were considering whether to return their Paycheck Protection Program loan prior to the May 18th deadline. To see the updated full SBA FAQ [click here](#).

### **PPP Interim Rule on Loan Increases**

The SBA issued a [new interim final rule](#) Wednesday night opening the door for lenders to increase existing Paycheck Protection Program (PPP) loans to partnerships and seasonal employers. The new interim final rule relating to partnerships addresses situations where partnerships completed their loan applications before guidance on guaranteed payments and partner self-employment income was released on April 14.



The April 14 interim rule prohibited partners in partnerships from submitting a separate PPP loan application for themselves as self-employed individuals. Instead, the partnership income subject to self-employment tax of partners could be included as a payroll cost, up to \$100,000 annualized, on a PPP loan application filed by, or on behalf of, the partnership.

Partnerships that had already submitted PPP applications without including partner self-employment income with loans less the maximum amount for which they were eligible and no process by which to resolve this. The interim final rule allows all PPP lenders to increase existing PPP loans to partnerships to include appropriate amounts to cover partner compensation in accordance with the April 14 interim final rule, or to permit the seasonal employer to calculate its maximum loan amount using the alternative criterion posted on April 28.

In addition, although the interim final rule on disbursements posted on April 28 requires PPP loans to be made in a single disbursement, if a PPP loan that is increased has already been disbursed, this interim final rule authorizes the lender to make an additional disbursement of the increased loan proceeds prior to submission of the initial SBA Form 1502 that includes that loan.

### **Economic Impact Payments**

The IRS and Treasury have successfully delivered nearly 130 million Economic Impact Payments to Americans in less than a month, and more are on the way. Some Americans may have received a payment amount different than what they expected. Payment amounts vary based on income, filing status and family size.

[Click here](#) for some common scenarios that may explain why you received a different payment amount than expected or why you haven't received your payment yet.

### **COVID-19 Update Center**

We have created a COVID-19 Update Center to support you., There you can find the latest tax and regulatory guidance, industry impacts, policy breakdowns, our previous eblasts and other helpful tips. [Click here](#) to see the latest.

### **Closing**

We anticipate you may have questions and need assistance with, or want to talk about, upcoming financial decisions. Please do not hesitate to contact the HW partner or team member you work with for assistance or with any questions you may have. We are here to help and are committed to serving you as best we can in these challenging times.

Sincerely,



Michael Briley, CPA, CGMA  
Managing Partner

