

COVID-19 Impact on the Construction Industry

April 30, 2020

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

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Create Opportunities

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Discussion Topics

- CARES Act/Other stimulus – Income tax update
 - Perry McGowan
- CARES Act – PPP Update
 - Mike Africk
- Panel discussion
 - Perry McGowan
 - Mike Africk
 - Ben Theuninck





CARES Act/Other Stimulus – Income Tax Update

Perry McGowan

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Reporting for PPP Loans

- Public Disclosure
- Financial Accounting
- Tax Accounting
- SBA Audit

Public Disclosure

- PPP loan information as public data
- Public data likely to include
 - Business name, address
 - Bank, loan amount, forgiveness amount

Financial Accounting

- Bank covenants, debt ratios
- Mounting debt
- Fiscal year vs. calendar year entities
- Loan entitlement risk
- Share price (redemption, buy-sell, etc.) volatility
- Many financial statement impacts of both pandemic and PPP

Tax Accounting

- Any amount otherwise includable in income from forgiveness of a covered loan is excluded from federal taxable income
- Tax credits probably not impacted
- Treatment for State income tax may vary by state
- Partners and S Corp shareholders consider for owner's basis in the entity
- C Corporations consider for E&P



SBA Audit

“...for any loan over \$2 million, the Small Business Administration will be doing a full review of that loan before there is loan forgiveness”

-- Steve Mnuchin



CARES Act – PPP Update

Mike Africk

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Recent Developments

- Intentions are good but there have been challenges
- PPP funding ran short, public opinion shifted
- Lawsuits against banks for prioritizing
- Change in the spirit of program
- Guidance trickling out at a slow pace
- In some cases interpretations have changed the rules
- Again, think about the speed of all of the events

Recent Developments

- Has been confusion in major areas
- Eligibility (Affiliates, ownership, certifications, etc.)
- Loan Sizing (\$100k limit, independent contractors)
- Allowable Uses (Section 1102 and Section 1106)
- Covered period costs (Section 1102 and Section 1106)
- Forgiveness (Where to start)



Recent Developments - Forgiveness

- 75% payroll threshold – All partial or none?
- Ordering of limit calculations
- Payroll cutoff? Hybrid, accrual or cash?
- FTE calculation
 - F/T and P/T (we think 30 hour/week)
 - Frequency of assessment (pay period, weekly?, 8 weeks?)
- Reduction in wages calculation



Certifications – Two Primary Issues

- The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:*

_____ *Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.*

_____ *The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.*



Certifications – Allowable Uses

- CARES ACT Section 1102(a)(2)(F)

“During the covered period, an eligible recipient may, in addition to the allowable uses of a loan made under this subsection, use the proceeds of the covered loan for” —(I) payroll costs; (II) group health care benefits; (III) commissions or other similar compensations; (IV) payments of interest on any mortgage obligation (pre 2/15/20); (V) rent (pre 2/15/20); (VI) utilities and (VII) interest on any other debt (pre 2/15/20).

- CARES ACT Section 1102(a)(2)(A)(iii)

The term “covered period” means the period beginning on 2/15/20 and ending on 6/30/20

Certifications – Economic Uncertainty

- FAQ #31 and FAQ #37 added new language
- FAQ #37 says it applies to private businesses
- New Certification:
 - Make certification in “good faith” (this is not new...)
 - Taking into account their current business activity ... ???
 - And their ability to access other sources of liquidity ... ???
 - Sufficient to support their ongoing operations ... ???
 - In a manner that is not significantly detrimental to business



What This Means for Borrowers

- Borrower/Representative owns the certifications
- Be comfortable with assertions in application
- Document support for all certifications/assertion
- Consider mindset at date of application
- Consider revisiting based on current conditions
- Consider consultation with attorney
- Make decision to keep or repay the loan





Panel Discussion

Mike Africk, Perry McGowan, Jeffrey Nesbitt, Ben Theuninck

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Resources

Responding to COVID-19



Unforeseen disruptions — from the coronavirus (COVID-19) to natural disasters — can create many uncertainties. These resources can help you lay out a strategy to put your organization on its toes versus its heels.



Operational
Support



Regulatory and Tax
Updates



Inspirational and
Leadership Tips



Financial
Management and
Disaster Relief



Accounting and
Financial Statement
Guidance



Workforce, Human
Resource, and
Benefits Guidance



<https://www.claconnect.com/COVID19>



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