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ADVISORY TAX AUDIT

American Rescue Act Provides Updates on Shuttered Venue Operator Grants

The American Rescue Act passed by Congress and signed by President Biden on March 11, 2021 has provided updates on Shuttered Venue Operator Grants (SVOG) as well as the program's interaction with PPP2.

Key features of the American Rescue Act related to Shuttered Venue Operator Grants:

- Additional $1.25 billion of funding for grants (now $16.25 billion total), of which $500,000 will be allocated to provide technical assistance to applicants
- Ability to apply for and receive both SVOG and PPP2
    - Any PPP2 loan received will reduce the amount of any SVOG grant able to be obtained (i.e. $2 million in PPP2 loans received will reduce the SVOG grant of an eligible recipient from $10 million to $8 million)

At this point, there is still no official opening date for the SVOG program, and the application has not become available for review. The SBA has recently released a checklist for eligible productions to begin preparing for the application (Preliminary application checklist). The SBA revised the document checklist on **March 11, 2021**. With PPP2 currently set to expire on March 31, 2020 and uncertainty around the date of the opening of the SVOG program, many are asking if they should take PPP2 before it's too late.

While the American Rescue Act provides a breath of fresh air for eligible entities deciding between PPP2 or SVOG, there should still be careful consideration when choosing between the two, or even both programs. Management should look at this on a case by case or production by production basis to assess all opportunities and risks that may arise.

Items to consider:

- PPP2 is a loan, while SVOG is a grant. They have very different requirements and operate differently. The eligibility requirements, amounts available to receive, and how they can be expended vary significantly. Expenses reimbursed or paid for by PPP2 cannot also be reimbursed or paid for by SVOG. An understanding of both programs is important.

- Since any PPP2 loan received will reduce the amount of SVOG a production is able to receive, a production should carefully consider its ability to have the PPP2 loan completely or partially forgiven. Amounts of PPP2 loans not forgiven will still result in a reduction of SVOG funding and the production will lose the benefit of including these costs as reimbursement through the SVOG program. Unforgiven PPP2 loans will need to be paid back at a 1% interest rate. The SVOG program does not require forgiveness calculations and any unused funds are returned to the SBA at the end of the grant period.

- PPP2 requires 60% of the loan amount be expended on payroll during the covered period (between 8 and 24 weeks of receipt) of the loan. If a production will not have payroll to meet this requirement during the anticipated covered period, PPP2 should not be considered. SVOG does not require a certain percentage be used towards payroll and covers a larger variety of costs incurred during the period of March 1, 2020 through December 31, 2021.

- The forgiveness provisions of PPP2 requires recipients to increase their full time employee (FTE) headcount to an equivalent of either 2/15/19-6/30/19 or 1/1/20-2/29/20 levels by the end of the covered period or risk the reduction of the loan amount eligible for forgiveness. Productions that will be unable to hire back employees to pre-shutdown levels should consider the risk of minimal loan forgiveness. It is unclear at this time if recipients will be able to take advantage of certain exceptions to this forgiveness "penalty" by the end of covered periods ending in 2021, due to anticipated changes in social distancing restrictions as the vaccine rollout continues.

- Any production applying for PPP2 would want to consider keeping a reserve for the entire amount of the loan. This will protect the production in case the loan is not completely forgiven and allow it to eliminate any debt remaining to be repaid.