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Executive Order Provides PPP Loans Not Subject to Florida Doc Stamps Tax

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The Paycheck Protection Program included in the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) allows businesses with 500 or fewer employees to receive federally-guaranteed loans to pay payroll costs, rent, and certain other expenses in an effort to keep these employees on their employer’s payroll. The program provides for subsequent loan forgiveness if the employer retains its employees and satisfies other requirements (a discussion of these requirements can be found here).

As Florida businesses rush to apply for Paycheck Protection Program loans, an unexpected cost of these loans was surfacing. The State of Florida imposes a documentary stamp tax on promissory notes and other written promises to pay a sum certain signed or delivered in the State of Florida. As a result, the tax would, absent governmental action, apply to Paycheck Protection Program loans.

On Monday, Governor DeSantis issued Executive Order Number 20-95, which provides that the Florida documentary stamp tax would not apply to any of these loans. Absent this action, Florida small businesses receiving these loans would have been subject to tax at the rate of 35 cents per $100 of principal (or portion thereof), subject to a maximum tax of $2,450. This executive order provides some additional relief for small businesses struggling in the face of the coronavirus pandemic.

It should be noted that the executive order was explicitly limited to Title I of the CARES Act, which governs the Paycheck Protection Program. The executive order does not extend to Title IV of the CARES Act, which provides for a $500 billion loan program for large businesses and municipalities.