

SWEET RELIEF: STIMULUS BILL WOULD CONFIRM PPP BORROWER TAX RELIEF – CONSOLIDATED APPROPRIATIONS ACT OF 2021

Posted on December 23, 2020 by Laura E. Krebs Al-Shathir



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On December 21, 2020, Congress passed the much anticipated COVID-19 relief legislation (Consolidated Appropriations Act, 2021 (“CAA, 2021”), sending the bill to President Donald Trump to sign. In CAA 2021, Congress delivered clarity to PPP loan borrowers in confirming that business expenses paid with the proceeds of subsequently-forgiven PPP loans ARE deductible.

The bill provides for relief dollars to be paid to many Americans, a second round of Paycheck Protection Program loans to support businesses, and many significant tax provisions, including tax extenders, clarifications, and other relief. Among the most anticipated tax clarifications is the deductibility of business expenses funded with PPP dollars.

The IRS’s Position Regarding PPP Loans and Deductibility of Expenses

Sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act established the Paycheck Protection Program (“PPP”) to assist small businesses nationwide adversely impacted by the COVID-19 emergency. Congress intended PPP loans to fund payroll

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Notice 2020-32

PPP Loan Forgiveness Comes with a Price: Lost Deductions

Shortly after the passage of the CARES Act, the IRS, in [Notice 2020-32](#), announced its position that, if a PPP loan is forgiven (with such forgiven dollars not included in taxable income), taxpayers could not deduct expenses paid for with those forgiven PPP dollars. The IRS's stance was that taxpayers should not benefit twice from a tax perspective by receiving non-taxable PPP funds while also getting to deduct payments made using such funds.

Rev. Rul. 2020-27

Questions then ensued surrounding the treatment of expenses that were funded with PPP loans that wouldn't be forgiven until a later year. In response, the IRS issued [Rev. Rul. 2020-27](#), providing that if a borrower has a reasonable expectation of loan forgiveness because it meets the various Treasury and SBA criteria, the expenses cannot be deducted even if the loan is on the books at the end of the year.

Congressional Response

On December 21, 2020, Congress overwhelmingly passed CAA, 2021, clarifying the Congressional intent behind the tax treatment of PPP loan money:

"(2) no deduction shall be denied or reduced, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1)." (COVID- 19 related Tax Relief Act of 2020, § 276).

The language of this new legislation indicates that business expenses paid with PPP dollars that are forgiven are eligible to be deductible. This provision applies to loans under both the original CARES Act and CAA, 2021.

Additionally, under the new law, owners of S corporations and partnerships will receive a step-up in basis attributable to PPP loan forgiveness in the year that the loan is forgiven. This will allow these owners to capture losses from pass-through entities, although not until the year when forgiveness of loans is confirmed by the SBA.

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