

IRS Follows Up on PPP Taxability Issues

In our Client Update on [Disallowed Paycheck Protection Program \(PPP\) Expenses](#) in May, 2020, we let you know that the IRS disallowed otherwise allowable deductions to the extent such expenses relate to the amount of PPP loan forgiveness. The IRS recently issued two additional pronouncements on tax issues of the PPP.

Key Highlights:

- The IRS confirmed that a borrower cannot claim a deduction for any otherwise deductible expense if the payment of the expense results in forgiveness of a PPP loan.
- Rev. Rul. 2020-27 addresses borrowers who pay expenses in 2020 but who do not received PPP loan forgiveness until 2021.
- Rev. Proc. 2020-51 is a safe harbor for borrowers that have their PPP loan forgiveness denied or who choose not to request loan forgiveness.

Rev. Rul. 2020-27 holds that borrowers cannot deduct expenses funded with PPP loan proceeds if they reasonably expect that the loan will be forgiven. This clarifies an open timing issue in the original Notice 2020-32 and reinforces the IRS position that expenses associated with loan forgiveness are not deductible—even before loan forgiveness is confirmed under the PPP. As a reminder, the CARES Act itself provides that PPP loan proceeds are not income to borrowers.

Rev. Proc. 2020-51 outlines a safe harbor for taxpayers who paid or incurred eligible PPP expenses during the 2020 taxable year, had “reasonably expected to receive forgiveness” at the end of the 2020 taxable year, but subsequently either: (a) the lender determines that forgiveness of all or part of the covered loan was denied; or (b) the borrower decides not to seek forgiveness for some or all of the covered loan. Under the safe harbor, an eligible borrower may either: (1) deduct the expenses on its original income tax return or information return for the 2020 taxable year; (2) deduct the expenses on an amended return; or (3) deduct the expenses in the subsequent tax year. The deduction may not exceed the amount of expenses for which the borrower was denied forgiveness or the amount of expenses for which the borrower decides to no longer seek forgiveness. A statement titled “Revenue Procedure 2020-51 Statement” must be attached to the return (or amendment) seeking the deduction and include information specifically enumerated in this Revenue Procedure.

A copy of Rev. Rul. 2020-27 can be found [HERE](#).

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