

CONGRESS AUTHORIZES DEDUCTIONS FOR QUALIFYING EXPENSES PAID WITH PPP FORGIVABLE LOAN PROCEEDS

Hodgson Russ Federal-International Tax Alert
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On December 27, President Trump signed the Consolidated Appropriations Act, 2021 (the “Act”) into law. Despite opposition from the IRS, the Act provides that qualifying expenses paid with proceeds from a forgivable Paycheck Protection Program (“PPP”) loan are deductible for federal income tax purposes, notwithstanding the fact that the PPP loan may be ultimately forgiven and exempt from income tax.

As we explained in prior alerts on [May 1](#) and [November 19](#), the CARES Act was silent on the deductibility of expenses paid by a taxpayer with the proceeds of a PPP loan which, as a result of the payment of those expenses, is later forgiven. The IRS made it clear that its view was that expenses paid with forgiven PPP loan proceeds would not be deductible, and it further clarified that delaying PPP forgiveness certification into 2021 would not enhance a 2020 deduction availability position. Several members of Congress expressed their disappointment with the IRS’s position because, in their view, the Congressional intent of the CARES Act was clearly to allow the deductibility of expenses related to PPP loan forgiveness.

Congress effectively overrode the IRS’s position directly addressing the deductibility of those expenses in the Act. Now, deductions are expressly available for qualifying expenses paid with PPP dollars, even if the payment of those expenses results in the forgiveness of the PPP loan and the associated taxable income exclusion. The Act ends the conflict between the IRS’s view expressed earlier this year that no deductions would be permitted and several members of Congress who insisted that deductibility of those expenses was always intended by the CARES Act.

The Act comes as a welcome relief to millions of taxpayers and their advisors who were struggling with this deduction dilemma as the 2020 tax year for many nears an end. And, more important, it effectively provides businesses with additional cash flow as they weather through the second wave of the pandemic.

Please contact Brad Birmingham (716.848.1511) or William Turkovich (716.848.1212) with any questions you may have regarding the PPP or the Act.

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