



## TAX LAW ALERT

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### IRS ISSUES ADDITIONAL GUIDANCE ON DEDUCTIBILITY OF EXPENSES PAID WITH PPP LOANS

The IRS has issued guidance in the form of a new Revenue Ruling (Rev. Rul. 2020-27) and Revenue Procedure (Rev. Proc. 2020-51) relative to the deductibility of covered expenses under the CARES Act where it is expected that the PPP loan will be forgiven in whole or in part.

Previously, in Notice 2020-32, the IRS set forth their position that where a taxpayer receives forgiveness of their PPP loan they cannot deduct the expenses that would otherwise be deductible to the extent the proceeds of the PPP that was used to pay these expenses is forgiven. What was not addressed, was how to treat these expenses for 2020 income tax purposes where it was unknown at the time the 2020 return was required to be filed if the PPP loan would be forgiven.

As we approach year-end this dilemma is being faced by many taxpayers, many of whom have not yet submitted their application for forgiveness under the CARES Act, and are not sure if their PPP loan will be forgiven in whole or in part.

The guidance provided in Notice 2020-32 has been confirmed by Rev. Rul. 2020-27. The IRS's position is that the expenses cannot be deducted on the taxpayer's 2020 income tax return if there is a reasonable expectation that the PPP loan will be forgiven.

*"A taxpayer that received a covered loan guaranteed under the PPP and paid or incurred certain otherwise deductible expenses listed in section 1106(b) of the CARES Act may not deduct those expenses in the taxable year in which the expenses were paid or incurred if, at the end of such taxable year, the taxpayer reasonably expects to receive forgiveness of the covered loan on the basis of the expenses it paid or accrued during the covered period, even if the taxpayer has not submitted an application for forgiveness of the covered loan by the end of such taxable year." (Rev. Rul. 2020-27, 2020 IRB \_\_\_\_ (Dec. 7, 2020))*

Rev. Proc. 2020-51 provides guidance to those who do not deduct their otherwise deductible expenses on their 2020 income tax returns because there was a reasonable expectation that their PPP loan would be forgiven and find out in a subsequent year that their PPP loan was not forgiven, in whole or in part. Those taxpayers can either take the deduction on their 2020 income tax return if has not yet been filed; file an amended return for 2020 if the original income tax return has been filed; file an Administrative Adjustment Request under Section 6227 of the Internal Revenue Code; or take the deduction on the income tax return filed for the year in which the determination is made that their PPP loan was not forgiven. Regardless of the approach taken, to claim the deduction Section 4.04 of the Rev. Proc. requires that a statement be attached to the return or request providing specific information concerning the taxpayer, the loan and the expenses.

**FOR ADDITIONAL INFORMATION, PLEASE CONTACT**

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