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November 20, 2020

Dear Arts Action Fund Member,

IRS Issues Tax Deductibility Guidance on PPP Loan Forgiveness Expenses and Income

On November 18, 2020 the U.S. Treasury Department and the Internal Revenue Service (IRS) issued tax guidance further clarifying that expenses paid with **forgiven** Paycheck Protection Program (PPP) loans **do not** qualify for a business expense tax deduction. The guidance also reconfirmed that Paycheck Protection Program (PPP) loans that have been forgiven or are expected to be forgiven shall be **excluded** from gross income tax.

IRS Ruling:

[Revenue Ruling 2020-27](#) states that PPP recipients may not deduct certain expenses if, at the end of the taxable year, the taxpayer reasonably expects the PPP loan to be forgiven. It also denies a deduction for expenses paid with PPP loan proceeds if the taxpayer **intends** to apply for loan forgiveness in the next taxable year, but did not do so by the end of the 2020 taxable year.

The administration also released [Revenue Procedure 2020-51](#), which provided a safe harbor for PPP participants whose loan forgiveness was at least partially denied or elected to forego forgiveness to claim a deduction. Those who did not ask for loan forgiveness can claim a deduction for the taxable year in which they decided to forgo the forgiveness request.

Treasury Secretary Mnuchin Statement:

In a corresponding [statement](#), Treasury Secretary Steven Mnuchin reiterated that "since businesses are not taxed on the proceeds of a forgiven PPP loan, the expenses are not deductible. This results in neither a tax benefit nor tax harm since the taxpayer has not paid anything out of pocket." The statement also encouraged businesses to file for forgiveness "as soon as possible."

Congressional Reaction:

The two rulings released yesterday double down on guidance the Treasury Department released in April 2020. It runs contrary to what Republican and Democratic lawmakers have said is the spirit of the language passed under the *Coronavirus Aid, Relief and Economic Security (CARES) Act* (P.L.116-136). In response to the initial guidance, Senate Finance Committee Chair Chuck Grassley (R-IA), Ranking Member Ron Wyden (D-WA) and House Ways and Means Committee Chair Richard Neal (D-MA) cosigned a letter to Mnuchin and IRS Commissioner Charles Rettig urging the agency to allow these businesses to deduct ordinary and necessary business expenses paid with the proceeds of a PPP loan. The Biden administration might choose to reverse course and allow a business expense deduction for expenses paid with the proceeds of a PPP loan. Alternatively, Congress may choose to pursue a legislative fix in the next COVID-19 stimulus package.

Resources to Assist You:

Please come to my Zoom Office Hours with Nina in the morning, Friday November 20th @ 11:00 am ET and I'll be happy to answer your PPP Forgiveness and tax guidance questions. If you miss this one, my next Office Hours is scheduled for Friday, December 4th @ 11:00 am ET.

Nina Ozlu Tunceli
Executive Director

