

IRS Issues Guidance Denying Tax Deductions for PPP Loans

The IRS has released guidance on the deductibility of payments for otherwise deductible expenses using funds from the Paycheck Protection Program (PPP). The guidance, although not unexpected, is not taxpayer friendly.

Revenue Ruling 2020-27 describes two situations. In situation 1, the taxpayer incurred eligible expenses for which a PPP loan was obtained. In November, the taxpayer applied for loan forgiveness under Section 1106 of the CARES Act. In situation 2, the taxpayer paid the same types of eligible expenses as those paid in situation 1. However, in situation 2, the taxpayer did not apply for forgiveness of the PPP loan before the end of 2020. However, in situation 2 the taxpayer intends to apply for forgiveness in 2021.

In both cases, the IRS held that the taxpayer could not deduct otherwise deductible expenses that were paid for using the proceeds from the forgiven or to be forgiven loan. This ruling is consistent with a prior notice released by the IRS, Notice 2020-32, which clarified that no deduction is allowed for an eligible expense that is otherwise deductible if the payment of the eligible expense results in forgiveness of a PPP loan. These rulings are consistent with longstanding IRS guidance which generally provides that no deduction is allowed where tax exempt income is used to pay the expense which would otherwise result in the deduction.

Revenue Procedure 2020-51, issued in tandem with Rev. Rul. 2020-27, provides a safe harbor allowing taxpayers to claim deductions in the taxable year beginning or ending in 2020 for eligible expenses if, in connection with the expenses paid in the tax year, the taxpayer receives a loan guaranteed under the PPP program which at the end of the taxpayer's 2020 taxable year, the taxpayer expects to be forgiven (and thus takes no deduction) and in a subsequent year the taxpayer's request for forgiveness for the PPP loan is denied or the taxpayer decides not to request forgiveness of the PPP loan. The procedure permits the taxpayer to either take a deduction in 2020, the year the expense was incurred, or in the year the debt forgiveness was denied or abandoned. In order to take advantage of this safe harbor, a taxpayer must file a statement with its return on which it is deducting the previously non-deducted expenses. The Revenue Ruling outlines the information required to be included in such statement.

If you have any questions relating to Revenue Procedure 2020-51 or Revenue Ruling 2020-27, or any issues relating to the tax treatment of PPP loans and debt forgiveness, please contact [Raymond Reichert](#) or the attorney in the firm with whom you are regularly in contact.



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