



TaxNewsFlash

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Rev. Proc. 2021-20: Safe harbor, expense deductions for taxpayers that received first-round PPP loans

The IRS today released an advance version of Rev. Proc. 2021-20 that provides a safe harbor for certain taxpayers that received first-round Paycheck Protection Program (PPP) loans but did not deduct any of the original eligible expenses because they relied on prior IRS guidance that disallowed such deductions and that was issued before legislative changes enacted in December 2020.

The safe harbor does not require the filing of an amended return, but can be invoked by making an election and attaching a statement to the federal income tax return for the tax year after the taxpayer's 2020 tax year.

Read [Rev. Proc. 2021-20](#) [PDF 128 KB]

Background

The PPP—a program providing financial support lending for small and large businesses that is administered by the Small Business Administration (SBA)—was originally launched by provisions included in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136). The CARES Act provided for the forgiveness of covered loans and that any amount that otherwise would be includible in an eligible recipient's gross income by reason of such forgiveness was excluded from gross income for federal income tax purposes.

The IRS in 2020 issued guidance (first Notice 2020-32 and then Rev. Rul. 2020-27) asserting that recipients of PPP loans were not to deduct otherwise deductible expenses to the extent that the payment of the expenses resulted (or was expected to result) in the forgiveness of a PPP-guaranteed loan. In other words, these taxpayers were not allowed to deduct expenses that otherwise would be deductible if the payment of the expense was anticipated to result in forgiveness of a PPP loan pursuant to provisions of the CARES Act.

A provision of the *Consolidated Appropriations Act, 2021* (Pub. L. No. 116-260) (enacted December 27, 2020) clarified the treatment of the deduction of expenses and provided that no amount will be included in the gross income of the eligible PPP loan recipient by reason of forgiveness of indebtedness and that no deduction will be denied, no tax attribute will be reduced, and no basis

increase will be denied by reason of the exclusion of the PPP loan proceeds from gross income. The legislative change is effective for tax years ending after March 27, 2020 (the date of enactment of the CARES Act).

The PPP was scheduled to expire March 31, 2021, but the program was extended when President Biden on March 30, 2021, signed legislation (Pub. L. No. 117-6) that extends the PPP through June 30, 2021 (that is, the program is extended through June 30, 2021, but the PPP extension legislation provides that for the final 30 days of the PPP—from June 1 through June 30, 2021—the SBA can only process applications submitted before June 1, 2021, and cannot accept any new loan applications).

Rev. Rul. 2021-2 (January 2021) implemented the December 2020 legislative changes allowing taxpayers to deduct otherwise deductible expenses to the extent that the payment of such expenses resulted (or was expected to result) in the forgiveness of a loan guaranteed by the PPP. Read [TaxNewsFlash](#)

Rev. Proc. 2021-20

Rev. Proc. 2021-20 provides a safe harbor for taxpayers that received PPP loans but, based on the prior IRS guidance (before enactment of the December 2020 legislation) did not deduct what would have been otherwise deductible expenses paid or incurred during the 2020 tax year. Under the safe harbor, these taxpayers may elect to deduct these expenses on a timely filed original federal income tax return or information return, as applicable, for the taxpayer's first tax year following the taxpayer's 2020 tax year—and does not require the filing of an amended return or administrative adjustment request for the taxpayer's 2020 tax year.

The safe harbor election is made by attaching a statement titled "Revenue Procedure 2021-20 Statement" that includes the required information to the applicable federal income tax return.

Rev. Proc. 2021-20 notes that the safe harbor does not preclude the IRS from examining any issues relating to the claimed deductions for original eligible expenses or from requesting additional information verifying amounts.

Read a related IRS release: [IR-2021-91](#) (April 22, 2021)

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