

No Deduction for Expenses Paid with PPPL \$\$ Forgiven



IRS applies IRC § 265 to disallow deductions

As discussed in our April 30th Stay Strong Webinar Series, the IRS issued the much-needed guidance on whether expenses paid with PPPL (Payroll Protection Program Loan) funds that are forgiven are deductible. The IRS delivered guidance earlier today and it is not taxpayer friendly.

The IRS issued Notice 2020-32 which states no deduction is allowed for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a PPPL and the income associated with the forgiveness is excluded from income.

The CARES Act established the PPPL and allows the recipient forgiveness for loan proceeds used to pay (1) payroll costs, (2) employer paid healthcare benefits, (3) interest on mortgage obligations, (4) rent, (5) utilities and (6) interest on any other existing debt obligations during the 8-week period beginning on the date of funding.

The CARES Act also stated that PPPL forgiveness will be reduced if, during the 8-week period following funding, (1) the average number of full-time equivalent employees is reduced as compared to the number of full-time employees in a specific time period, or (2) the salary or wages of employees is reduced by more than 25% as compared to the last full quarter before the 8-week period.

As suspected, the IRS applied IRC § 265 which provides that no deduction is allowed for any amount otherwise allowable as a deduction if paid from funds exempt from income.

From the IRS's standpoint, this ruling prevents a double tax benefit if the PPPL amount forgiven was excluded from income and taxpayers were able to deduct expenses paid with those funds.

So now what? The first option is to strongly encourage Congress and the President to pass a law that specifically excludes expenses paid with PPPL forgiven from IRC § 265 so the expenses are deductible. While there may be a double benefit, the current state of the US economy needs as much assistance as possible and allowing these deductions lets businesses spend more funds on other goods and services to help jump start the economy. If there is any silver lining from the pandemic, it may be the speed at which Congress and the President have proven they can pass legislation to assist individuals and businesses during times of need (no comment on the clarity of the laws passed).

The second option is to incorporate the ruling into your PPPL forgiveness planning. This ruling adds additional factors and complexity that should be included in your decision-making process on how you utilize your PPPL funds.

RDG+Partners is available, as we have been since the Coronavirus pandemic started, to assist with your financial decisions during these challenging times. Please contact us at 585-673-2600 and ask to speak with a team member who will be pleased to discuss your situation.