

May 6, 2020

The Honorable Steven T. Mnuchin  
Secretary of the Treasury  
U.S. Department of the Treasury

The Honorable Charles P. Rettig  
Commissioner of Internal Revenue  
Internal Revenue Service

RE: Concern With the Position Taken in IRS Notice 2020-32

Dear Treasury Secretary Mnuchin and Commissioner Rettig:

On April 30, 2020, the IRS released Notice 2020-32, which states that the disbursements that constitute the basis for forgiveness of a Paycheck Protection Program (PPP) loan will not be tax-deductible.

That Notice states, "Neither Section 1106(i) of the CARES Act nor any other provision of the CARES Act addresses whether deductions otherwise allowable under the Code for payments of eligible Section 1106 expenses by a recipient of a covered loan are allowed if the covered loan is subsequently forgiven under Section 1106(b) of the CARES Act as a result of the payment of those expenses."

In their May 5, 2020, letter, the Chair and Ranking Member of the U.S. Senate Finance Committee and Chair of the U.S. House Ways and Means Committee stated that the intent of Congress was that Section 1106 of the CARES Act not limit the deductibility of expenses which were used as a basis for forgiveness of loans made under Section 1102 of the Act. This is particularly true since Congress provided for forgiveness to not trigger income and elimination of the deduction would negate that benefit.

In addition to the apparent intent of Congress, the topic of tax deductibility was not discussed in any of the SBA guidance regarding loan applications or forgiveness. The business community applied for the loans and agreed to the representations in the loan applications under the assumption that the tax deductibility was not in question.

With the tax deductibility in question and the varying nature of the representations, some loan recipients may feel justified in not paying employees but rather keeping the funds as a low-interest loan. This was not the intent of Congress or the Act.

Based on the Congressional intent and the uncertainty about the responses from the loan recipients, we feel that the Notice should be withdrawn. We also support S. 3612 that clarifies the deductibility of PPP-funded expenses.

If you have any questions, or if we can assist further, please feel free to contact me at 972-687-8521 or [jray@tscpa.net](mailto:jray@tscpa.net); or David Donnelly at 832-333-7431 or [ddonnelly@cricpa.com](mailto:ddonnelly@cricpa.com).

Sincerely,



Jodi Ann Ray, CAE  
President/CEO



David P. Donnelly, CPA  
Chair, Federal Tax Policy Committee

/pmw

cc: Members, U.S. Senate Committee on Finance  
Members, U.S. House Ways and Means Committee  
Texas Members of Congress