

Paycheck Protection Program (PPP) Update: IRS Acknowledges Deductible of PPP Business Expenses and SBA Announces Minority Owned Businesses Receive PPP Priority

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At the end of 2020, the US Senate and House of Representatives overwhelmingly passed, and President Trump signed, a new \$900 billion Covid-19 Relief package: the Consolidated Appropriations Act of 2021 (the CAA). It included a much-needed provision addressing small business' largest complaint with the Paycheck Protection Program (PPP) loans: the inability to deduct eligible expenses that were paid for with PPP funds.

As we discussed in a previous post, the Internal Revenue Service (IRS) was holding firm to their position that Section 265 and corresponding regulations, preempted small businesses from deducting normal business expenses if they were paid for using PPP loan proceeds because PPP loans can be fully forgiven. Therefore, the IRS argued that Section 265 was intended to prevent "double dipping."

Congress remedied this issue in the CAA by stating: "no amount shall be included in gross income of the eligible recipient by reason of forgiveness of indebtedness . . . [and] no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied." Accordingly, the IRS has declared that its earlier position is obsolete and now the IRS will allow deduction of normal businesses expenses that were paid for with PPP funds.

The Small Business Administration (SBA) also announced guidance for minority, underserved, veterans, and women-owned business who struggled to receive PPP1 loans. In conjunction with the Economic Aid to Hard-Hit Small Businesses, Non-Profits, Venues Act, the SBA is focusing on

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providing additional support to underserved groups seeking PPP2 loans by offering:

- \$35 Billion for businesses that did not receive PPP1 loans
- \$35 Billion for businesses with 10 employees or less or business in low- or moderate-income neighborhoods seeking less than \$250,000
- A special two-day window for loan applications from community financial institutions
- To match small businesses with local lenders
- To set aside dedicated hours to assist business with smaller loans
- Potentially easing some PPP lender qualifications for minority, women, veteran/military owned lenders
- A new section to the PPP application where businesses can report on their demographics in order to ensure these underserved groups are given priority

While the SBA has not announced when this two-day window will open or when the SBA will once again start reviewing PPP applications, it is important for business to start preparing documents now to be ready for whenever the start date is announced.

Bailey Glasser stands ready to assist you with any questions or concerns you may have regarding your current PPP loan or applying for a new or second PPP loan. We will continue to monitor the PPP and will provide updates accordingly. Please contact Bailey Glasser directly here.

Attorneys

Alexandra L. Serber

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