

Congress of the United States

Washington, D. C. 20515

December 9, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232, U.S. Capitol

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, U.S. Capitol

The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
H-107, U.S. Capitol

The Honorable Steve Scalise
Minority Whip
U.S. House of Representatives
H-148, U.S. Capitol

Dear Speaker Pelosi, Leader McCarthy, Leader Hoyer, and Whip Scalise,

Thank you for your continued efforts to provide assistance to the American people through these challenging times. As we continue working on additional coronavirus assistance measures, we want to bring your attention to an important issue affecting small businesses across the United States and ask for your help in providing much-needed relief.

Over the past few months, statewide shutdowns in response to the pandemic have had devastating effects on small businesses throughout the country. Thousands of small businesses have permanently closed, while capacity restrictions and reopening costs have drastically cut revenue streams for those that have remained open.

In response to these dire economic conditions, Congress enacted the Paycheck Protection Program (PPP) to provide more than \$600 billion for forgivable loans to small businesses to help keep employees on payroll and continue operating. Since its enactment, over 5 million loans have been made to businesses in all fifty states. This program has helped keep our economy from total collapse by providing a lifeline to small businesses with no alternative funding source.

The PPP was intended to provide vital tax-free assistance for certain business costs in unprecedented economic circumstances. Congress specifically included Section 1106(i) in the CARES Act to exclude forgivable loan assistance from taxable income. On April 30, however, the Internal Revenue Service (IRS) released Notice 2020-32 disallowing the deduction of forgiven expenses.

As Chairman Grassley, Chairman Neal, and Ranking Member Wyden wrote in a letter to Secretary Mnuchin on May 5, 2020¹, this notice is contrary to Congressional intent. Section 1106(i) of the CARES Act was put in place specifically to ensure forgivable loan proceeds would be tax free, stating that “any amount which (but for this subsection) would be includible in gross income of the eligible recipient by reason of forgiveness described in subsection (b) shall be excluded from gross income.” Notice 2020-32 essentially ignores this section and effectively makes forgivable loans taxable despite Congress’s clear intent to allow the deduction of necessary business expenses.

¹ [https://www.finance.senate.gov/imo/media/doc/2020-05-05%20CEG,%20RW,%20RN%20to%20Treasury%20\(PPP%20Business%20Deductions\).pdf](https://www.finance.senate.gov/imo/media/doc/2020-05-05%20CEG,%20RW,%20RN%20to%20Treasury%20(PPP%20Business%20Deductions).pdf)

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To make matters worse, on November 18, 2020, the IRS released Revenue Ruling 2020-27 stating that PPP recipients who had not even received or applied for forgiveness could not deduct normal business expenses if they reasonably expected their loans to be forgiven.

These notices are not only contrary to Congressional intent, but in fact changed the terms of the loan after a majority of PPP applicants had already applied for and received funds. Over 84% of total PPP applications were submitted prior to April 17, when the program first expired. This unfairly changed the rules of the program after the overwhelming majority of participants had joined.

Without Congressional action, small businesses are estimated to pay over \$120 billion in taxes on forgivable PPP loans. At a time when many are struggling to keep their doors open each day, we cannot saddle small businesses with a massive surprise tax bill.

For this reason, we ask that you include a fix to clarify that recipients of forgivable PPP loans can claim normal business expense deductions in any end-of-year legislation. Thank you for your consideration of this request.

Sincerely,



George Holding
Member of Congress



Lizzie Fletcher
Member of Congress



Drew Ferguson
Member of Congress

CC:

Richard Neal, Chairman of the House Committee on Ways and Means

Kevin Brady, Ranking Member of the House Committee on Ways and Means

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