

Got a PPP loan? IRS says you can't deduct expenses from them — at least for now

■ *Some may consider itemizing which expenses were paid for with PPP funds and which were not.*

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Hidden amongst the never-ending news cycle of 2020 was the fact that on April 30 the IRS declared that taxpayers cannot claim a deduction for any otherwise deductible expense (including payroll, mortgage interest, covered utility payments and rent), if the taxpayer received a Paycheck Protection Program loan and sought forgiveness of that loan.

On Nov. 18, the IRS doubled down on that position, issuing both a Revenue Ruling (which is an official interpretation of the Internal Revenue Code) and a Revenue Procedure (which is an official statement of a procedure that affects the rights and duties of a taxpayer). Another way of looking at it — the IRS stated its position and then told us how to implement that position.

The IRS's position is significant because the CARES Act, Section 1106, did not address whether deductions were or were not allowable. Rather, the IRS went out on a limb and affirmatively took a position, one which could drastically impact businesses across the country. Many businesses immediately applied for a PPP loan as soon as the process opened because it was essential to keep the doors open and the lights on. In the interim, after many businesses applied and accepted the loans, there



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were 11 pages of FAQs and 26 Interim Final Rules governing the terms of that loan. Companies did not know (and many still do not know) that by accepting that loan that meant the traditional business deductions were no longer an option, which effectively increases a company's net business income.

In response to the IRS publication in April — a bill (SB 3612) was introduced in the Senate to undo the IRS position. Unfortunately, nothing has yet happened with that legislation.

What changed between the April 30 publication and the November Ruling and Procedure? Nothing much. The IRS reiterated the position that if a business does not include the PPP funds in its taxable income, then any expenses that were paid with that loan may not be included as a tax deduction. The Ruling and Procedure did create some confusion as the Ruling seems to require that loan forgiveness needed to have occurred before the rule applied. The Rule later clarifies that a taxpayer also cannot deduct the expenses if it "reasonably believes" its loan will be forgiven.

So what can you do now? First and fore-

Resources

PPP loan rule:
[tinyurl.com/IRSPPPLoans](https://www.tinyurl.com/IRSPPPLoans)

SB 3612:
[tinyurl.com/SB3612](https://www.tinyurl.com/SB3612)

Letter to Congress:
[tinyurl.com/CongressPPPLetter](https://www.tinyurl.com/CongressPPPLetter)



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most, contact your legislators and other industry groups. Already more than 170 organizations have co-signed a letter to Congress encouraging a technical correction to address the tax treatment of loan forgiveness under the PPP.

Second, you may want to hold off on preparing your 2020 taxes to see if the new presidential administration and new Congress can address the issue. Or you can file your taxes, but do painstakingly itemize which expenses were paid for with PPP funds and which were not. None of this makes your accountant's job easier — but as the year comes to a close, it is a good idea to get an understanding of what the implications of this IRS rule has on your bottom line.

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