



Alerts

IRS Position on the Deductibility of Expenses Paid with PPP Loan Proceeds

May 1, 2020
Hinshaw Alert

Yesterday, the IRS issued [Notice 2020-32](#) to provide guidance concerning the deductibility for Federal income tax purposes of otherwise deductible expenses incurred in a taxpayer's trade or business when the taxpayer receives a PPP loan.

Section 1106(b) of the Cares Act states that a recipient of a PPP loan can have the PPP loan indebtedness forgiven in an amount equal to the sum of payments made for the following expenses during the 8-week period beginning on the date the loan proceeds are disbursed: (1) payroll costs; (2) any payment of interest on any mortgage obligation incurred before February 15, 2020; (3) any payment on any rent obligation in effect before February 15, 2020; and (4) any utility payment for service started before February 15, 2020.

Section 1106(i) of the CARES Act states that any amount that would be includible in gross income of the PPP borrower by reason of the forgiveness described in Section 1106(b) "shall be excluded from gross income."

The IRS stated in the Notice that neither Section 1106(i) nor any other provision of the CARES Act addresses whether deductions otherwise allowable under the Internal Revenue Code for payments of Section 1106 expenses by a PPP borrower are allowed if the PPP loan is subsequently forgiven pursuant to Section 1106(b) of the CARES Act as a result of the payment of those expenses.

The IRS is taking the position that no deduction is allowed under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a PPP loan pursuant to Section 1106(b) of the CARES Act and the income associated with the forgiveness is excluded from gross income for purposes of the Code pursuant to Section 1106(i) of the CARES Act.

Attorneys

Timothy M. Sullivan

Service Areas

Business & Commercial
Transactions