



TAX LAW ALERT

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CONGRESS REVERSES IRS GUIDANCE ON DEDUCTIBILITY OF EXPENSES PAID WITH PPP LOANS

In an Alert dated November 23, 2020, we brought to your attention the guidance that was provided by the Internal Revenue Service in Revenue Ruling 2020-27, confirming the Internal Revenue Service's position first set forth in Notice 2020-32, that otherwise deductible expenses that were paid from the proceeds of a PPP loan that was forgiven, would not be deductible. At the same time that the Internal Revenue Service published Revenue Ruling 2020-27, they also published Revenue Procedure 2020-51, which addressed issues relating to those situations where it was unknown if the PPP loan would be forgiven at the time the 2020 income tax return was required to be filed.

As part of the Consolidated Appropriations Act, 2021 (the "Act"), which was passed by Congress on December 21, 2020, and is expected to be signed into law by the President, Congress made it clear that expenses paid from the proceeds of a PPP loan would be deductible even if the PPP loan was forgiven under the CARES Act. Congress also made it clear that PPP loans and EIDL grants would not be considered taxable income and that the tax basis and other attributes of a taxpayer's assets would not be reduced as a result of PPP loan forgiveness. These provisions were made retroactive to the date of enactment of the CARES Act and will also apply to Second Draw PPP loans.

The provisions of the Act effectively rendered Revenue Procedure 2020-51, moot.

The Act contains additional tax provisions which will be the subject of future Alerts.

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