Support the Economic Recovery

Ensure Deductibility of PPP Loan Expenses and Provide Liability Safe Harbors for Main Street Businesses

ISSUE

The Coronavirus Aid, Relief, and Economic Security (CARES) Act clearly excludes forgiven Paycheck Protection Program (PPP) loans from income for tax purposes. The Internal Revenue Service (IRS), however, issued a notice that forgiven PPP loan expenses may not be deducted from federal income taxes. Under this interpretation, PPP forgiveness grants are effectively no longer tax-free as Congress had intended, so any small business loan recipient seeking forgiveness faces significantly increased the tax liability.

Separately, as small business dealers reopen during the pandemic and follow laws to protect their employees and customers, they are concerned about unwarranted lawsuits. Congress should: *1) clarify that PPP loan expenses are tax deductible to ensure small businesses receive the intended benefits of the PPP loans; and 2) pass temporary protections to discourage pandemic-related lawsuits when businesses comply with health and safety laws.*

BACKGROUND

Passed in March 2020, the CARES Act created the PPP loan program in response to the sudden, widespread economic downturn caused by the coronavirus. The program, which allowed employers to obtain loans and then seek forgiveness of the amounts used for payroll and other expenses was timely and effective. Small business dealers relied on PPP loans to retain employees in the face of mandatory closures and dramatically reduced demand.

In April 2020, the IRS contradicted congressional intent under the CARES Act by releasing Notice 2020-32, which treats otherwise fully deductible expenses as completely non-deductible, if those expenses were paid and forgiven as part of a PPP loan. If the IRS interpretation stands, borrowers would have to pay additional income tax, since payroll and other expenses related to PPP loan forgiveness would not be tax deductible. The *Small Business Expense Protection Act* (S. 3612/H.R. 6821), which would reverse this interpretation, has broad bipartisan support.

In addition, as small businesses reopen and face litigation threats related to the coronavirus pandemic, it is extremely important that Congress adopt temporary and targeted safe harbors. To protect against needless pandemic-related lawsuits, NADA and over 200 groups have urged Congress to enact temporary liability protections for businesses that comply with health and safety guidelines and laws.

KEY POINTS

- **There is strong bipartisan support to clarify that the CARES Act provides for full deductibility of PPP loan expenses.** Furthermore, the Joint Committee on Taxation stated that corrective legislation would have no revenue impact because Congress intended to provide full deductibility in the CARES Act.
- **The PPP loan program has successfully preserved jobs, but the IRS interpretation would change the tax treatment of PPP loans and undermine the benefits Congress intended to provide.** Without relief, millions of small businesses will face significant tax liabilities when they can least afford added financial burdens.
- **Liability protection for small businesses during the pandemic is vital to our national economic recovery.** Congress should pass temporary, targeted relief to businesses, balancing employee and customer safeguards and protecting business that, in good faith, follow local, state and federal health and safety guidance and laws.

STATUS

The House-passed HEROES Act (H.R. 6800) included a provision that would ensure that small businesses can fully deduct from their taxes eligible expenses paid with a forgiven PPP loan. Liability protection for businesses have been included in Senate Republican economic relief bills but faces opposition by Democratic leadership. *Congress should provide certainty for small businesses by ensuring the full deductibility of PPP loan expenses and by enacting liability protections for businesses that follow the law to help get the economy back on track.*

September 11, 2020