



ATTORNEYS AT LAW

U.S. Senate Moves To Reaffirm Deductibility Of Certain PPP Expenses

By Kent L. Schwarz, Esq.

As you are probably aware, the Payroll Protection Program (“PPP”) implemented as part of the Cares Act allows PPP loans to be forgiven to the extent the proceeds are used for certain designated expenses, such as payroll costs, rent, utilities and mortgage interest. Section 1106(i) of the Cares Act provides that any amount of the loan that is forgiven under the Act, shall be excluded from gross income for federal income tax purposes. The Cares Act is silent on whether the expenses giving rise to the loan forgiveness are deductible.

The IRS recently issued Notice 2020-32 indicating their position that the expenses attributable to the portion of a PPP loan that is forgiven will not be deductible by reason of section 265 of the Internal Revenue Code, which disallows deductions for expenses attributable to certain tax-exempt income. In response, the AICPA came out with a statement questioning the Notice and seeking legislative clarification. Why go through the trouble to write into the Act that the income from the loan forgiveness will be excluded from gross income only to turn around and take away an equal amount of deductions that gave rise to the forgiveness, the AIPCA reasoned?

The U.S. Senate has heard the AICPA’s objection and yesterday introduced a bipartisan bill to clarify that the expenses should be deductible. We are hoping it passes into law to override Notice 2020-32 and preserve the intent of the Cares Act on this important issue.

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About the Author:



Kent L. Schwarz is a member of the firm and, in addition to being a member of the Staffing team, serves as the chair of both the Firm's Tax and M&A Groups. Kent has experience in all aspects of federal and state taxation, including advising on domestic and international corporate transactions, tax-free reorganization, executive compensation, and tax controversy matters.

Kent regularly acts as lead counsel in significant Staff Industry acquisitions as well as business sales to both strategic and private equity buyers. He also has significant experience assisting Staffing clients with business structures and access to capital, compensation strategies, plans and policies, and the structure and content of client and business-critical contracts.

In addition to his Masters in tax law, Kent holds a license as a Certified Public Accountant in North Carolina.

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