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PPP Loans – Tax Implications

The IRS and the Treasury recently released Rev. Rul. 2020-27 in relation to deductible expenses and how they relate to PPP loans. Under the ruling, the IRS provides that a taxpayer that receives a PPP loan, and paid or incurred, otherwise deductible expenses related to that loan may not deduct those expenses in the tax year those expenses were paid or incurred.

According to Rev. Rul. 2020-27, it does not matter if the application for forgiveness has been filed before the end of the tax year. The IRS presents two scenarios in the revenue ruling as examples. In both scenarios, the borrower pays expenses such as payroll and mortgage interest that would qualify under the CARES Act as eligible PPP expenditures and the borrower satisfies all of the requirements for the loan to be forgiven. In the first scenario, the borrower applies for forgiveness in November 2020, but does not receive notice of forgiveness by year-end. In the second scenario, the borrower does not plan to apply for forgiveness until 2021. The ruling explains that based on the "clear and readily accessible guidance available to apply for and received covered loan forgiveness," taxpayers can make a determination of their reasonable expectation of forgiveness. Therefore, in both of these scenarios, taxpayers are not eligible to deduct those expenses because of that "reasonable expectation of forgiveness."

The IRS also released Rev. Proc. 2020-51 to provide a safe harbor rule for PPP loan borrowers where the forgiveness has been denied in full or in part. In this instance, the IRS states that the taxpayer would be permitted to take a tax deduction for those otherwise eligible expenses on an original return, an amended return, or an administrative adjustment request.

If you have any questions regarding these new rulings, please contact one of our attorneys.

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