Spring & Co.
CERTIFIED PUBLIC ACCOUNTANTS

Tax & Business Alert

MARCH 2021

PPP LOANS: ONE YEAR LATER

About a year ago, the Paycheck Protection Program (PPP) was launched in response to the COVID-19 crisis. If your company took out such a loan, you're likely curious about the tax consequences — particularly for loans that have been forgiven.

FORGIVENESS CRITERIA

An eligible recipient may have a PPP loan forgiven in an amount equal to the sum of various costs incurred and payments made during the covered period. These include payroll costs, interest (but not principal) payments on any covered mortgage obligation (for mortgages in place before Feb. 15, 2020), payments for any covered rent obligation (for leases that began before Feb. 15, 2020), and covered utility payments (for utilities that were turned on before Feb. 15, 2020). Also eligible are covered operations expenditures, property damage costs, supplier costs and worker protection expenses.

Your covered period would normally have been the 24-week period beginning on the date you took out the loan (ending no later than Dec. 31, 2020, if that was before the expiration of the 24-week period). If you received a PPP loan before June 5, 2020, you could elect a shorter 8-week covered period. If you didn't elect the 8-week period and instead used the longer 24-week period, you had to maintain payroll levels for the full 24 weeks to be eligible for loan forgiveness. If you didn't make an election, the 24-week period applies.

An eligible recipient seeking forgiveness of indebtedness on a covered loan must verify that the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered lease obligation or make covered utility payments.

CANCELLATION AND DEDUCTIBILITY

The reduction or cancellation of indebtedness generally results in cancellation of debt income to the debtor. However, the forgiveness of PPP debt is excluded from gross income. Your tax attributes (net operating losses, credits, capital and passive activity

"SECOND-DRAW" PPP LOANS LAUNCHED

Under the Consolidated Appropriations Act, eligible businesses may be able take out so-called "second-draw" PPP loans. These loans are primarily intended for beleaguered small businesses with 300 or fewer employees that have used up, or will soon use up, the proceeds from initial PPP loans. The maximum second-draw loan amount is $2 million, and only one such loan can be taken out.

To qualify for a second-draw loan, a company must demonstrate at least a 25% decline in gross receipts in any quarter of 2020 as compared to the corresponding quarter in 2019. Qualifying businesses can generally borrow up to 2.5 times their average monthly payroll costs for either the one-year period before the date on which the loan is made or calendar year 2019. The application deadline is March 31, 2021.

loss carryovers, and basis) wouldn't generally be reduced on account of this exclusion.

The CARES Act was silent on whether expenses paid with the proceeds of PPP loans could be deducted. The IRS took the position that these expenses were nondeductible. However, the Consolidated Appropriations Act, enacted at the end of 2020, provides that expenses paid from the proceeds of PPP loans are deductible.

ANY QUESTIONS?

A PPP loan may complicate your company's 2020 income tax filing. Please contact us with any questions you might have. ■

HOME'S WHERE A TAX BREAK MIGHT BE

If you own a home, the interest you pay on your home mortgage may provide a tax break in the form of the mortgage interest deduction. However, you must itemize deductions on your tax return and follow a few other rules.

ACQUISITION DEBT

A personal interest deduction generally isn't allowed, but one type of interest that is deductible is interest on mortgage "acquisition debt." This means debt that's: 1) secured by your principal home and/or a second home, and 2) incurred in acquiring, constructing or substantially improving the home. You can deduct interest on acquisition debt on up to two qualified residences: your primary home and one vacation home or similar property.

The deduction for acquisition debt comes with a stipulation. From 2018 through 2025, you can't deduct the interest for acquisition debt greater than $750,000 ($375,000 for married filing separately taxpayers). So, if you buy a $2 million house with a $1.5 million mortgage, only the interest you pay on the first $750,000 in debt is deductible. The rest is nondeductible personal interest.

HIGHER LIMITS ON THE WAY

Beginning in 2026, you'll be able to deduct the interest for acquisition debt up to $1 million ($500,000 for married filing separately).

The higher $1 million limit also applies to acquisition debt incurred before Dec. 15, 2017, and to debt arising from the refinancing of pre-Dec. 15, 2017, acquisition debt, to the extent the debt resulting from the refinancing doesn't exceed the original debt amount. Thus, taxpayers can refinance up to $1 million of pre-Dec. 15, 2017, acquisition debt, and that refinanced debt amount won't be subject to the $750,000 limitation.

The limit on home mortgage debt for which interest is deductible includes both your primary residence and your second home, combined. Some taxpayers believe they can deduct the interest on $750,000 for each mortgage. But if you have a $700,000 mortgage on your primary home and a $500,000 mortgage on your vacation place, the

interest on $450,000 of the total debt will be nondeductible personal interest.

"HOME EQUITY LOAN" INTEREST

"Home equity debt," as specially defined for purposes of the mortgage interest deduction, means debt that is secured by the taxpayer's home, and *isn't* "acquisition indebtedness" (meaning it wasn't incurred to acquire, construct or substantially improve the home).

From 2018 through 2025, there's no deduction for interest on a home equity loan unless you use the loan proceeds to buy, build or substantially improve your main home or second home. Other requirements apply. Interest on the home equity loans that are used to pay personal living expenses, such as credit card debts, is not deductible.

MORE INFORMATION

Your home is valuable in many ways. Contact us with questions or if you'd like more information about the mortgage interest deduction. ■

HAVE A FOREIGN ACCOUNT? FILE AN FBAR

Any U.S. person who has a financial interest in, or signature or other authority over, any foreign financial accounts must file a Report of Foreign Bank and Financial Accounts (FBAR) if the aggregate value of the foreign financial accounts exceeds $10,000 at any time during the calendar year. Let's explore more of the pertinent details.

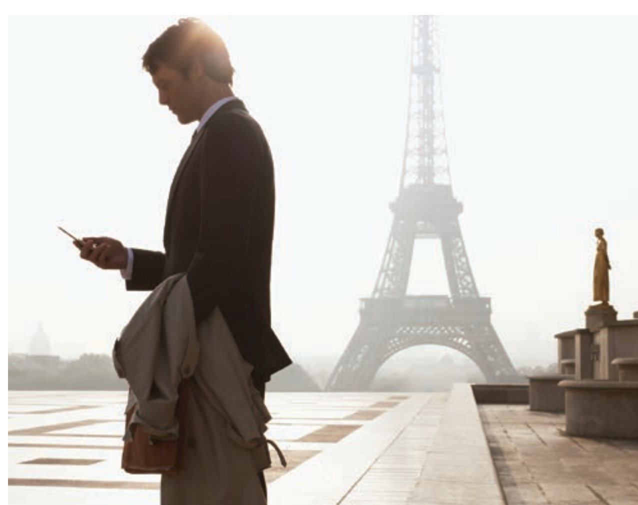
PERSONS AND ACCOUNTS

A "U.S. person" is generally a U.S. citizen, including a child. However, a U.S. person may also be an individual who's a resident alien (under the Internal Revenue Code) of the United States, the District of Columbia, Native American lands (as defined in the Indian Gaming Regulatory Act), or the Territories and Insular Possessions of the United States.

Also qualifying as a U.S. person is an entity — including a corporation, partnership, trust or limited liability company — organized or formed under U.S. laws or the law of any State, the District of Columbia, U.S. Territories or Insular Possessions, or Native American tribes.

A "foreign financial account" is a financial account located outside the United States. For FBAR purposes, the United States includes the states themselves as well as the District of Columbia, territories and possessions of the United States, and certain Native American lands.

An account maintained with a branch of a U.S. bank that's physically located outside of the United States *is* a foreign financial account. An account maintained with a branch of a foreign bank that's physically located inside of the United States *isn't* a foreign financial account.



WHAT DEFINES INTEREST

A U.S. person has a financial interest in a foreign financial account if the U.S. person is the owner of record or holder of legal title, regardless of whether the account is maintained for the benefit of the U.S. person or for the benefit of another person.

A financial interest may also exist if the owner of record or holder of legal title is one of certain listed entities. These include certain entities controlled by the U.S. person or an agent, a nominee, an attorney or someone acting in another capacity on behalf of the U.S. person.

PENALTY AMOUNTS

Civil penalties for nonwillful violations can exceed $10,000 per violation, as adjusted for inflation. For willful violations, civil penalties can range up to the greater of $100,000 as adjusted for inflation or 50% of the amount in the account at the time of the violation. Contact us for more information. ■

RECONSIDERING YOUR PERSONAL EMERGENCY FUND

When the COVID-19 pandemic first hit, many people's emergency funds were suddenly put the test — if the funds existed at all. Now, about a year later, and presumably with the benefit of some hindsight, you might want to reconsider your savings for a rainy day. You've probably heard that, to guard against an emergency, you need to save enough to cover three to six months of living costs. But this rule isn't as straightforward as it may sound.

An emergency cushion is indeed important — and it's certainly better to be conservative rather than cavalier when estimating your financial requirements. However, believe it or not, there may be a danger to saving too much in certain vehicles. For example, if you put away substantially more than you'll reasonably need in a low-interest savings account, you may lose money to inflation over time. Plus, you might miss out on opportunities to invest those funds in tax-advantaged retirement accounts or other assets.

Rather than blindly following a rule of thumb, tailor your emergency savings to your financial situation. A smaller emergency fund may suffice if, for instance, your spouse has a reasonably secure job; you have relatives who can provide financial assistance in an emergency; or you have reason to believe that you'd be able to find other work quickly should you lose your job. Conversely, if you're the sole breadwinner or you simply have a low tolerance for risk, a bigger emergency fund is likely appropriate. Our firm can help you find the right balance. ■

This publication is distributed with the understanding that the author, publisher and distributor are not rendering legal, accounting or other professional advice or opinions on specific facts or matters, and, accordingly, assume no liability whatsoever in connection with its use. The information contained in this newsletter was not intended or written to be used and cannot be used for the purpose of (1) avoiding tax-related penalties prescribed by the Internal Revenue Code or (2) promoting or marketing any tax-related matter addressed herein. © 2021