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IRS Denies Tax Deductions For Wages, Rent Paid With Forgivable PPP Loans

The Paycheck Protection Program offers an alluring loan of up to \$10M tax free. If you comply, you don't even have to pay it back. What's more, there is no forgiveness of debt income when your loan is forgiven, something that is standard fare if you are relieved of paying back debt. However, IRS [Notice 2020-32](#) confirms you can't claim tax deductions, even for the wages, rent, etc. that are *normally* fully deductible. The CARES Act provisions for small business include the Paycheck Protection Program, which calls for up to \$10 million in forgivable loans to cover employee payroll, and immediate tax credits that are designed to do the same thing. After the IRS notice, it now appears that [Congress could reverse IRS denial of tax deductions](#).

Since the PPP came out, it has been roiled in controversy, with the SBA and banks offering a less than seamless roll out, and a true run on the bank that depleted all the money very fast. Congress eventually came to the rescue by authorizing more money, but that seems likely not to last very long either. And the FAQs and other pieces of guidance have been fast and furious. So has speculation about various points. There have been debates about the tax

deduction point, with some people saying you could still deduct the wages, since the CARES Act did not seem to say otherwise. But under traditional tax principles, it seemed too good to be true that you could get the free money, not pay discharge of debt income, *and still* deduct the payments of wages and rent made with the free money. The IRS notice confirms that.



The Paycheck Protection Program allows loans of up to \$10 million at 1% interest to employers with fewer than 500 workers to cover two months of payroll and overhead. If you keep your workers and do not cut their wages, the government will forgive most or all of the loan and even repay the bank that actually made you the loan. The loan amounts will be forgiven as long as: (1) The loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8 week period after the loan is made; and (2) Employee and compensation levels are maintained. Payroll costs are capped at

\$100,000 for each employee. SBA lenders have details, though there has been controversy and hiccups in rolling out the program.

Your loan forgiveness will be reduced if you decrease your full-time employee headcount. Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019. You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

You also have to specifically request loan forgiveness. You can submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

There are other no-double dip rules too. You can't get both a small business loan under the PPP and also [claim CARES Act tax credits to keep employees](#). Which is better? It's one of those annoying 'it depends,' so run the numbers. Finally, it now appears that [Congress could reverse IRS denial of tax deductions](#).

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