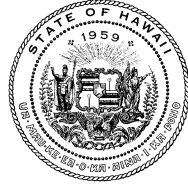


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July 2, 2021

TAX INFORMATION RELEASE NO. 2021-05

RE: Details and Timing of Paycheck Protection Program Loan Forgiveness

The purpose of this Tax Information Release (TIR) is to provide further guidance regarding the claiming of deductions for expenses paid with Paycheck Protection Program (PPP) funds. The pandemic has caused a lot of confusing and last-minute changes in the law affecting the taxability of the PPP. In TIR No. 2021-03, the Department of Taxation (Department) announced that it was adopting Revenue Ruling No. 2020-27 in its entirety. Through the issuance of this TIR, the Department is expressly revoking TIR No. 2021-03, and providing further relief for the proper filling of Hawaii State tax returns.

PPP FAQs

Are Paycheck Protection Program (“PPP”) loan forgiveness amounts excluded from gross income?

Yes, for Hawaii tax purposes, these amounts are excluded from gross income.

Are expenses paid by a PPP loan deductible on the Hawaii tax return?

If the expenses paid by the taxpayer entitle it to the PPP loan forgiveness, and the taxpayer has a reasonable expectation of forgiveness, the deductions **are not** allowed on the Hawaii return.

What is considered a “reasonable expectation of forgiveness?”

Reasonable expectation is based on the taxpayer’s satisfaction of the forgiveness requirements of the PPP loan program. If the expenses paid by the taxpayer entitle it to the PPP loan forgiveness and has applied for loan forgiveness, then the taxpayer has a reasonable expectation of forgiveness, and the deductions are not allowed. Payroll costs, interest on a covered mortgage obligation, a covered rent obligation, or a covered utility payment are examples of expenses that would qualify the loan for forgiveness.

Does the State follow the federal “double benefit” treatment of PPP amounts?

No, for Hawaii income tax purposes, the general rule preventing double benefits shall apply to amounts received from the PPP.

Therefore, if the expenses paid by the taxpayer entitle it to PPP loan forgiveness, and the taxpayer has a reasonable expectation of forgiveness, the deductions are not allowed.

What if I already filed the 2020 Hawaii tax return taking the “double benefit?”

If the expenses paid by the taxpayer entitle it to PPP loan forgiveness, and the taxpayer has a reasonable expectation of forgiveness, the deductions are not allowed. If a return has already been filed, the return must be amended to remove any disallowed deductions. If the loan is ultimately not forgiven, assuming that the expenses paid were otherwise deductible, deductions may be claimed for the year in which the expenses were paid.

What happens if my PPP loan is forgiven in 2021?

If the expenses paid by the taxpayer entitle it to PPP loan forgiveness, and the taxpayer has a reasonable expectation of forgiveness, the deductions are not allowed, even if loan forgiveness is not expected until a future taxable year.

Note: If you file or have already filed the 2020 return without taking the “double benefit,” there should be no need to amend the return. The return was properly filed with the covered loan forgiveness being reasonably expected to occur.

How do I file if my PPP loan forgiveness application is still pending?

If the expenses paid by the taxpayer entitle it to PPP loan forgiveness, and the taxpayer has a reasonable expectation of forgiveness, the deductions are not allowed, even if loan forgiveness is not expected until a future taxable year. If the loan is ultimately not forgiven, assuming that the expenses paid were otherwise deductible, deductions may be claimed for the year in which the expenses were paid.

What if I filed the 2020 Hawaii tax return but my PPP loan forgiveness application is later denied?

If the loan is ultimately not forgiven, assuming that the expenses paid were otherwise deductible, deductions may be claimed for the year in which the expenses were paid. If a return has already been filed, the return may be amended to include the deductions for ordinary and necessary expenses paid with the PPP loan.

Can I request a waiver of penalties and interest incurred from the PPP?

You may send a written request for waiver to our Taxpayer Advocate. All requests must clearly state the reason(s) for the waiver and must include payment for the total tax due.

Waiver requests are due by October 20, 2021 for returns on extension and December 31, 2021 for amended returns. Please send the waiver request and payment to:

Department of Taxation
P.O. Box 259
Honolulu, HI 96809-0259
Attn: Taxpayer Advocate

If you have any questions, you may contact the Rules Office by email at tax.rules.office@hawaii.gov, or call (808) 587-1530.

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