GALLAGHER, FLYNN & COMPANY, LLP

♦ Tax Alert ♦

April 12, 2021

AN IMPORTANT NOTE: The following communication references information specific to Vermont. You may wish to disregard the following in its entirety if you do not reside in/your company does not operate within the state.

An excerpt from an important alert from the Lake Champlain Chamber follows:

The House Ways and Means and Senate Finance Committees made changes to the language in H.315 in its final stages to tax PPP loans forgiven in tax year 2021. ***In short, if your PPP loan was forgiven in 2021, or has yet to be forgiven, you will be taxed on the amount of your loan as if it was business income.*** If you have a PPP loan, and do not want to be taxed on that loan in tax year 2021, we strongly suggest you reach out to members of the Senate Finance Committee or House Ways and Means Committee. Not sure what to say? LCC's advocacy team will be hosting an informational webinar on Wednesday morning on this issue and its impacts on you.

REGISTER

Below is a further analysis of the move to help you advocate to read more on why this happened, you can read last week's update.

- **Taxing PPP loans would negate the purpose of the program**. When PPP was first created under the CARES Act, the legislative intention was that these loans would be non-taxable. Congress saw this as so important to the program's desired impact that they took the extraordinary step of reaffirming this in the subsequent Consolidated Appropriations Act.
- **Without PPP, the unemployment rates would have been much higher, more businesses would have closed their doors, and the economic fallout would have been more severe.** As our state's unemployment system was strained and crashing, PPP created a parallel unemployment system to spread the load, with many employers simply using PPP funds to pay their employees to "stay home, stay safe." There is a trauma to losing one's job, even with UI, PPP kept this trauma from occurring by keeping employees on the employer's payroll. Furthermore, personal income tax revenue to the state was not decreased due to these loans.

- **To tax these loans, which were always presented as a tax-free lifeline, would penalize employers who did the right thing and now do not have the funds.** If these loans were to be taxable suddenly, most employers would be met with a surprise tax bill they have no way to pay after a year of being closed through no fault of their own. To have the loan forgiven, implies that the employer spent the loan in its entirety on payroll and eligible expenses, leaving them with nothing to show.
- **Retroactively changing the circumstances around the assistance will be unfair, inequitable, and create turmoil.** The money to pay tax on these loans is not there as most employers have done what the program told them to do – spend the money right away. Given the state is conforming to federal treatment in TY 2020, those least served by the program and who only gained access in 2021 will receive inequitable treatment. An unforeseen tax bill will prolong the economic impact of the pandemic. Many of the businesses that were late to access this program have been the hardest hit by the pandemic and the least served by the program in its earlier iterations. Finally, businesses had no control over when their loan is ultimately forgiven, as procedural hurdles prevented rapid forgiveness, dragging them into 2021.
- **There is no double benefit.** For example, if an employer has $100,000 of a PPP loan forgiven, they can and should deduct those expenses. Taxing what otherwise would have been deductible means that the employer is in a worse place than if they had laid off employees and sent them to the UI system. Furthermore, the state *already* collected revenue from PPP loans in the form of payroll taxes.

The above text was authored by, and forwarded courtesy of, the Lake Champlain Chamber.

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