

# Waiver of Information Reporting Requirements with Respect to Certain Amounts Excluded from Gross Income

Notice 2021-06

## **I. PURPOSE**

This notice waives the requirement to file certain information returns or furnish certain payee statements otherwise required by the Internal Revenue Code (Code) pursuant to section 279 of the COVID-related Tax Relief Act of 2020 (COVID Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat.1182 (December 27, 2020) (CAA 2021).

Specifically, this notice waives the requirement to file certain information returns or furnish certain payee statements otherwise required by chapter 61 of the Code with respect to amounts excluded from gross income by reason of section 7A(i) of the Small Business Act (15 U.S.C. § 631 et seq.) or sections 276(b), 277, or 278 of the COVID Relief Act. This notice also obsoletes Announcement 2020-12, 2020-41 I.R.B. 893.

## **II. BACKGROUND**

Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020), as amended by the Paycheck Protection Program Flexibility Act of 2020, Pub. L. No. 116-142, 134 Stat. 641 (June 5, 2020) (collectively, CARES Act), established the Paycheck Protection Program (PPP), allowing qualifying businesses (eligible recipients) to obtain loans guaranteed by the Administrator of the Small Business Administration (Administrator) under section 7(a)(36) of the Small Business Act (15 U.S.C. § 636(a)(36)) (PPP covered loans). Section 1106 of the CARES Act (originally codified at 15 U.S.C. § 9005) provides that

an eligible recipient of a PPP covered loan is eligible for forgiveness of indebtedness for all or a portion of the stated principal amount of the PPP covered loan if certain conditions are satisfied. Section 304 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), enacted as Title III of Division N of the CAA 2021, redesignated, transferred, and amended section 1106 of the CARES Act (15 U.S.C. § 9005) as section 7A of the Small Business Act, to be inserted after section 7 of the Small Business Act (15 U.S.C. § 636). Section 276(a)(1) of the COVID Relief Act amended section 7A(i) of the Small Business Act, as redesignated, transferred, and amended by the Economic Aid Act, to provide that, for taxable years ending after March 27, 2020 (the date of the enactment of the CARES Act), no amount is included in the gross income of an eligible recipient by reason of forgiveness of a PPP covered loan.

Section 311 of the Economic Aid Act authorizes Paycheck Protection Program Second Draw (PPP II) covered loans for qualifying businesses (eligible entities) guaranteed by the Administrator under section 7(a)(37) of the Small Business Act (15 U.S.C. § 636(a)(37)), and provides that an eligible entity is eligible for forgiveness of a PPP II covered loan in the same manner as an eligible recipient with respect to a PPP covered loan made under section 7(a)(36) of the Small Business Act (15 U.S.C. § 636(a)(36)). Section 276(b)(1) of the COVID Relief Act provides that no amount of a forgiven PPP II loan is included in the gross income of an eligible entity.

Sections 3504, 18004, and 18008 of the CARES Act authorize institutions of higher learning to award emergency financial aid grants to assist students with unexpected expenses and unmet financial needs that result from a qualifying

emergency and with expenses related to the disruption of campus operations due to the COVID-19 pandemic. Section 277(a) of the COVID Relief Act provides that these grants, as well as other emergency financial aid grants made to students in response to a qualifying emergency (as defined in section 3502(a)(4) of the CARES Act), are not included in the gross income of a student receiving such a grant.

Section 1109 of the CARES Act authorizes the Department of the Treasury (Treasury Department), in consultation with the Administrator, and the Chairman of the Farm Credit Administration to establish criteria for various lenders that do not already participate in lending under Small Business Administration programs, to participate in the PPP to provide loans. Section 1109(d)(2)(D) requires that lenders use terms and conditions that, to the maximum extent practicable, are consistent with the terms and conditions for PPP covered loan forgiveness under section 1106 of the CARES Act. Section 278(a)(1) of the COVID Relief Act provides that no amount of such a forgiven loan is included in the gross income of a borrower.

Section 1110 of the CARES Act (15 U.S.C. § 9009) and section 331 of the Economic Aid Act provide for Economic Injury Disaster Loan grants (EIDL grants) to certain eligible entities under section 7(b)(2) of the Small Business Act (15 U.S.C. § 636(b)(2)). Section 278(b)(1) of the COVID Relief Act provides that an advance under section 1110(e) of the CARES Act or any funding under section 331 of the Economic Aid Act is not included in the gross income of the person that receives such advance or funding.

Section 1112(c) of the CARES Act (15 U.S.C. § 9011(c)) authorizes the Administrator to subsidize certain loan payments by paying principal, interest, and any

associated fees owed on certain loans. Section 278(c)(1) of the COVID Relief Act provides that such a payment is not included in the gross income of the person on whose behalf the payment is being made. Section 278(c)(2) provides that no deduction shall be denied by reason of the exclusion of the loan payments from gross income.

Section 324(b) of the Economic Aid Act authorizes the Administrator to provide grants to shuttered venue operators. Section 278(d)(1) of the COVID Relief Act provides that such a grant is not included in the gross income of the person that receives the grant.

Section 279 of the COVID Relief Act authorizes the Secretary of the Treasury or the Secretary's delegate to provide an exception from any requirement to file an information return otherwise required under chapter 61 of the Code with respect to any amount excluded from gross income by reason of section 7A(i) of the Small Business Act or sections 276(b), 277, or 278 of the COVID Relief Act.

Announcement 2020-12, published prior to the enactment of the COVID Relief Act, stated that when all or a portion of the stated principal amount of a covered loan is forgiven because the eligible recipient satisfies the forgiveness requirements under section 1106 of the CARES Act, an applicable entity is not required to, for federal income tax purposes only, and should not, file a Form 1099-C, *Cancellation of Debt*, information return with the Internal Revenue Service (IRS) or provide a payee statement to the eligible recipient under section 6050P of the Code as a result of the qualifying forgiveness.

### III. GRANT OF RELIEF

Under the authority provided by section 279 of the COVID Relief Act, the

Treasury Department and the IRS waive the requirement to file information returns or furnish payee statements as described in the following list:

1. Original PPP covered loan forgiveness. A lender is not required to file with the IRS, or furnish to a borrower, a Form 1099-C reporting forgiveness of PPP covered loans under section 7A(i) of the Small Business Act as redesignated, transferred, and amended by the Economic Aid Act.
2. PPP II covered loan forgiveness. A lender is not required to file with the IRS, or furnish to a borrower, a Form 1099-C reporting forgiveness of PPP II covered loans under section 311 of the Economic Aid Act.
3. Student emergency financial aid grants. A grantor is not required to file with the IRS, or furnish to a student, a Form 1099-MISC, *Miscellaneous Information*, reporting the payment of an emergency grant to the student under section 3504, 18004, or 18008 of the CARES Act or another emergency financial aid grant described in section 277(b)(3) of the COVID Relief Act made to students in response to qualifying emergencies.
4. Treasury Program loan forgiveness. A lender is not required to file with the IRS, or furnish to a borrower, a Form 1099-C reporting forgiveness of loans under section 1109 of the CARES Act.
5. EIDL grants. The Administrator is not required to file with the IRS, or furnish to a recipient, a Form 1099-MISC reporting the payment of an advance under section 1110(e) of the CARES Act or a grant under section 331 of the Economic Aid Act.
6. Loan subsidies. Neither the Administrator nor a lender is required to file with the IRS, or furnish to a borrower, a Form 1099-MISC reporting the payment of

principal, interest, and any associated fees through a loan subsidy authorized under section 1112(c) of the CARES Act.

7. Shuttered venue operator grants. The Administrator is not required to file with the IRS, or furnish to a recipient, a Form 1099-MISC reporting the payment of a grant to a shuttered venue operator under section 324(b) of the Economic Aid Act.

#### IV. **OTHER INFORMATION REPORTING**

The waivers of information reporting requirements described in section III of this notice apply only to requirements to file and furnish Form 1099 series information returns and payee statements for the described grants, payments, subsidies, or loan forgiveness, which are excluded from gross income. The waivers do not affect any requirements to file and furnish other forms, such as forms in the 1098 series. For example, the waiver does not apply to the requirement to file and furnish Form 1098-T, *Tuition Statement*, with respect to any payments received for qualified tuition and related expenses, including qualified tuition and related expenses paid with grants described in this notice.

Because borrowers may deduct mortgage interest that the Small Business Administration (SBA) paid to lenders under section 1112 of the CARES Act, lenders may include those mortgage interest payments in Box 1 of Form 1098, *Mortgage Interest Statement*, notwithstanding § 1.6050H-1(e)(3)(ii) of the Income Tax Regulations. The payments should be included on both the Form 1098 that is filed with the IRS and the copy that is furnished to borrowers. Including this interest on Form 1098 will inform borrowers of the total amount of mortgage interest they may deduct. In

addition, this reporting will avoid discrepancies between interest reported to the IRS and interest claimed as a deduction by borrowers on their income tax returns. The filing of information returns with the IRS omitting mortgage interest that the SBA paid to lenders under section 1112 of the CARES Act could result in the issuance of underreporter notices (IRS Letter CP2000) to eligible recipients who correctly deduct that interest. Lenders who are unable to furnish by February 1, 2021, a Form 1098 to a borrower that includes mortgage interest that the SBA paid to lenders under section 1112 of the CARES Act may furnish a corrected Form 1098 including this interest in box 1. Lenders are encouraged to do so as promptly as possible.

**V. EFFECT ON OTHER DOCUMENTS**

Announcement 2020-12 is obsoleted.

**VI. DRAFTING INFORMATION**

The principal author of this notice is Isaac Brooks Fishman of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Isaac Brooks Fishman at (202) 317-5436 (not a toll-free call).