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## PPC

# Five-Minute Tax Briefing<sup>®</sup>

## May 12, 2020

### No. 2020-09

### Highlights

**Expense Deductibility When a Paycheck Protection Program (PPP) Loan Is Forgiven:** The IRS has provided guidance regarding the deductibility for federal income tax purposes of certain otherwise deductible expenses incurred in a taxpayer's trade or business when the taxpayer receives a loan pursuant to the PPP under Sec. 7(a)(36) of the Small Business Act. The Notice clarifies that, under IRC Sec. 265, no deduction is allowed for an expense that is otherwise deductible if payment of the expense results in forgiveness of a covered loan pursuant to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and the income associated with the forgiveness is excluded from gross income under Sec. 1106(i) of the CARES Act. A taxpayer may receive debt forgiveness of a covered loan for payments made during the eight-week covered period of (1) payroll costs, (2) interest on a covered mortgage obligation, (3) covered rent, and (4) covered utilities [subject to certain limitations addressed in Sec. 1106(d) of the CARES Act]. Notice 2020-32.

**IRS Issues Draft Form 941 and Instructions:** The IRS has released a draft of the revised Form 941 (Employer's Quarterly Federal Tax Return) and its instructions for 2020. The form reflects significant changes to allow for the reporting of new employment tax credits and other tax relief related to COVID-19. For example, the new credit for qualified sick and family leave wages is reported on line 11b and, if applicable, line 13c. The new employee retention credit is reported on line 11c and, if applicable, line 13d. There also are new lines to report (1) the deferred amount of

the employer's share of Social Security tax during the calendar quarter and (2) total advances received from filing Form 7200 (Advance Payment of Employer Credits Due to COVID-19) for the quarter. The revised form, which is available at [www.irs.gov/pub/irs-dft/f941--dft.pdf](http://www.irs.gov/pub/irs-dft/f941--dft.pdf), should be used starting with the second quarter of 2020 (April 1 to June 30).

**President Trump Signs Paycheck Protection Program and Health Care Enhancement Act:** On 4/24/20, President Trump signed the Paycheck Protection Program and Health Care Enhancement Act. Among other things, the Act provides \$310 billion to the Small Business Administration (SBA) to replenish the Paycheck Protection Program (PPP), with \$30 billion earmarked for smaller banks and credit unions, and \$30 billion reserved for lenders that serve businesses in minority and rural communities. The Act also allocates (1) \$60 billion for Economic Injury Disaster Loans (EIDLs); (2) \$75 billion to reimburse certain health care providers for expenses or lost revenues attributable to COVID-19; and (3) \$25 billion to research, develop, validate, manufacture, purchase, administer, and expand capacity for COVID-19 tests. The Act does not contain any tax provisions. A copy of the Act is available at [www.congress.gov/bill/116th-congress/house-bill/266/text](http://www.congress.gov/bill/116th-congress/house-bill/266/text) . P.L. 116-139.

## Other Current Releases

**IRS Allows Electronic Requests for Private Letter Rulings and Other Legal Advice:** The IRS is temporarily allowing taxpayers to electronically submit requests for Private Letter Rulings (PLRs), closing agreements, determination letters, and information letters under the jurisdiction of the IRS Office of Chief Counsel, and for determination letters issued by the IRS Large Business and International (LB&I) Division. Also, electronic signatures are allowed on the required documents. The IRS will continue to accept paper requests in addition to electronic requests. However, electronic submission will allow for more expeditious processing than a paper submission. To use the secure electronic facsimile method, the user fee must first be paid through [www.pay.gov](http://www.pay.gov) . Taxpayers who have already filed a paper request and have not received confirmation that it has been received and processed may wish to make an electronic submission to ensure faster processing. If a duplicate request is submitted electronically, the taxpayer should indicate on the request that it is a duplicate submission of a paper submission. Rev. Proc. 2020-29.

**IRS Enhances "Get My Payment" Online Application:** The IRS announced significant enhancements to the "Get My Payment" tool to deliver an improved and smoother experience for Americans eligible to receive economic impact payments. "We delivered Get My Payment with new capabilities that did not exist during any similar relief program, including the ability to receive direct deposit information that accelerates payments to millions of people," said IRS Commissioner Chuck Rettig. For taxpayers to track the status of their payments, the tool will show the scheduled delivery date by direct deposit or mail and the last four digits of the bank account being used by the IRS for direct deposit purposes. If a bank account is not on file with the IRS, taxpayers may add one after providing their AGI and refund amount (or amount owed) from their most recent tax

return. The IRS will post FAQs on [www.irs.gov/coronavirus](http://www.irs.gov/coronavirus) and provide updates as soon as they are available. News Release IR 2020-82.

**IRS Postpones Special Enrollment Exams for Enrolled Agents:**The IRS has announced that the 2020–2021 testing period for enrolled agents will not start on 5/1/20. Due to the COVID-19 pandemic, testing centers in the U.S. and Canada have been closed through 5/31/20. Those who had a Special Enrollment Exam (SEE) appointment scheduled in May will be contacted to reschedule. Also, the international testing window from 6/15/20 to 6/29/20 has been cancelled. International candidates can schedule testing dates falling in the three remaining windows (August 2020, November 2020, and February 2021). To provide candidates more flexibility during this time, the IRS is extending the two-year carryover period to three years for any examination parts that had not expired as of 2/29/20. Candidates who passed a part of the exam on or before 2/29/20 will now have three years from that date to pass the remaining parts. For more information, see [www.irs.gov/tax-professionals/enrolled-agent-news](http://www.irs.gov/tax-professionals/enrolled-agent-news) .

**IRS Settlement Days Program Will Continue Virtually:**The IRS's Settlement Days program is a coordinated effort to resolve Tax Court cases by giving taxpayers not represented by counsel the opportunity to receive free tax advice and possible representation from Low Income Taxpayer Clinics (LITCs) or other pro bono organizations. Taxpayers can discuss their case and federal tax issues with members of the IRS Office of Chief Counsel, Appeals and Collections. Recently, the IRS announced that the Settlement Days program will continue in a virtual setting due to stay-at-home orders. Virtual events have been scheduled for May 2020 for cases docketed on the Detroit and Atlanta Tax Court trial sessions. More than 100 unrepresented taxpayers have been invited to meet with Chief Counsel attorneys or paralegals via WebEx for the two events. According to the IRS, future events may be scheduled in other cities throughout the U.S. News Release IR 2020-87.

**IRS Updates FAQs on Economic Impact Payments:**The IRS has updated its list of Frequently Asked Questions (FAQs) regarding economic impact payments, which were authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Specifically, the FAQs clarify that a payment made to someone who died before receipt of the payment should be returned to the IRS. If the payment was made to joint filers, and one spouse had not died before receipt of the payment, only the portion of the payment made on account of the decedent (generally \$1,200) needs to be returned. In addition, the FAQs state that nonresident aliens and incarcerated individuals do not qualify for an economic impact payment. The updated FAQs, including instructions on how to return an economic impact payment to the IRS, are available at [www.irs.gov/coronavirus/economic-impact-payment-information-center](http://www.irs.gov/coronavirus/economic-impact-payment-information-center) .

**Procedure—IRS FAQ Clarifies Tax Court Filing Deadlines:**In *Guralnik* (146 TC 230), the Tax Court granted the taxpayer additional time to file a petition because the clerk's office was closed due to a snow emergency. In a recent Frequently Asked Question (FAQ), the IRS clarified that taxpayers may benefit from relief granted under *Guralnik* and Notice 2020-23, which postpones the due date for filing a Tax Court petition to 7/15/20, if the original due date fell on or after 4/1/20 and

before 7/15/20. Therefore, if the last day for filing a petition fell on 3/19/20 (the date the Tax Court closed), the taxpayer will get the benefit of *Guralnik* from 3/19/20 and the benefit of Notice 2020-23 from 4/1/20 until 7/15/20. If the Court were to reopen before 7/15/20, the taxpayer will benefit from Notice 2020-23 until that date. If the Court reopens after 7/15/20, the due date for the taxpayer's petition is extended to the Court's reopening date under *Guralnik* and the relief under Notice 2020-23 does not apply. See [www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers](http://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers) for more information.

**Procedure—Tax Court Building Remains Closed:** According to a press release, the Tax Court building in Washington, D.C. remains closed. The Tax Court provides electronic access (eAccess) allowing registered petitioners, intervenors, corporations, fiduciaries, certain other participants, and persons representing petitioners and respondents who are admitted to practice before the Court to electronically view documents in their cases. The Court also allows electronic filing (eFiling) in all cases by petitioners and practitioners in good standing with the Court who have registered for eAccess. eFiling can be commenced only after a petition has been filed. Initial filings, such as the petition, may be filed only in paper form. All litigants in active Tax Court cases are encouraged to register for electronic access in order to electronically file and view documents. In addition, the Court remains unable to process paper applications for admission to practice before the Court. Applications may, however, be emailed to [Admissions@ustaxcourt.gov](mailto:Admissions@ustaxcourt.gov).

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