

Consolidated Appropriations Act, 2021 (FY2021 Appropriations & COVID Relief Agreement)

TEXT OF THE HOUSE AMENDMENT TO THE SENATE AMENDMENT TO H.R. 133, December 21, 2020

PPP Forgivable Loans.

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SEC. 276. CLARIFICATION OF TAX TREATMENT OF FORGIVENESS OF COVERED LOANS.

(a) ORIGINAL PAYCHECK PROTECTION PROGRAM LOANS.—

(1) IN GENERAL.—Subsection (i) of section 7A of the Small Business Act, as redesignated, transferred, and amended by the Economic Aid to Hard- Hit Small Businesses, Nonprofits, and Venues Act, is amended to read as follows:

“(i) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986—

“(1) no amount shall be included in the gross income of the eligible recipient by reason of forgiveness of indebtedness described in subsection (b),

“(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

“(3) in the case of an eligible recipient that is a partnership or S corporation—

“(A) any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986, and

“(B) except as provided by the Secretary of the Treasury (or the Secretary’s delegate), any increase in the adjusted basis of a partner’s interest in a partnership under section 705 of the Internal Revenue Code of 1986 with respect to any amount described in subparagraph (A) shall equal the partner’s distributive share of deductions resulting from costs giving rise to forgiveness described in subsection (b).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after the date of the enactment of the CARES Act.

(b) SUBSEQUENT PAYCHECK PROTECTION PROGRAM

LOANS.—For purposes of the Internal Revenue Code of 1986, in the case of any taxable year ending after the date of the enactment of this Act—

(1) no amount shall be included in the gross income of an eligible entity (within the meaning of subparagraph (J) of section 7(a)(37) of the Small Business Act) by reason of forgiveness of indebtedness described in clause (ii) of such subparagraph,

(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

(3) in the case of an eligible entity that is a partnership or S corporation—

(A) any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986, and

(B) except as provided by the Secretary of the Treasury (or the Secretary’s delegate), any increase in the adjusted basis of a partner’s interest in a partnership under section 705 of the Internal Revenue Code of 1986 with respect to any amount described in subparagraph (A) shall equal the partner’s distributive share of deductions resulting from costs giving rise to the forgiveness of indebtedness referred to in paragraph (1).

(b) EMERGENCY EIDL GRANTS AND TARGETED EIDL ADVANCES.—For purposes of the Internal Revenue Code of 1986—

(1) any advance described in section 1110(e) of the CARES Act or any funding under section 331

of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act shall not be included in the gross income of the person that receives such advance or funding,

(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

(3) in the case of a partnership or S corporation that receives such advance or funding—

(A) any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986, and

(B) the Secretary of the Treasury (or the Secretary's delegate) shall prescribe rules for determining a partner's distributive share of any amount described in subparagraph (A) for purposes of section 705 of the Internal Revenue Code of 1986.