

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

November 20, 2020

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Administrator Carranza, Secretary Mnuchin, and Commissioner Rettig:

As you know, the Paycheck Protection Program (PPP) was created by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L., 116-136, to maximize small businesses' ability to maintain financial liquidity, retain their employees, and recover from the COVID-19 pandemic.

The text of the CARES Act made it clear that any loan forgiveness under the PPP program would be excluded from the borrower's taxable income in §1106(i). This section states that "For purposes of the Internal Revenue Code of 1986, any amount which (but for this subsection) would be includible in gross income of the eligible recipient by reason of forgiveness described in subsection (b) shall be excluded from gross income."

Nevertheless, Treasury and the IRS continues to disregard the clear intent of Congress. First, the publication of IRS Notice 2020-32 on April 30, 2020 denied PPP borrowers the ability to deduct the same expenses that qualify them for loan forgiveness. Then, on November 18, 2020 the IRS released Rev. Rul. 2020-27, confirming that businesses who are waiting for PPP forgiveness this tax year or who will apply for forgiveness in 2021, cannot deduct expenses funded with PPP loans—because they have a reasonable expectation of forgiveness. It should be noted this revenue

ruling was released even after the House-passed Heroes Act, H.R. 925, included language to further support allowing for these deductions.¹

It is unacceptable that America's small businesses continue to suffer due to this ruling as this pandemic continues. The Committee has heard from small businesses across the country who took a PPP loan to keep their businesses alive and pay their employees, but because of Treasury and IRS rules that disregard of the intent of Congress, now face uncertainty and potentially higher taxes.

Denying Congressional intent regarding the correct tax treatment of these loans will add insult to injury for millions of America's small businesses who have struggled due to the COVID-19 pandemic. Given that Small Business Majority estimates that more than one-in-three small businesses—and 41% of Black and Hispanic-owned businesses—will not make it to 2021, we ask that Treasury and IRS reverse its position in Rev. Rul. 2020-27. Furthermore, we will continue to push to ensure that Congress will reaffirm its intent to restore the benefits promised in the CARES Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Nydia M. Velázquez". The signature is written in a cursive, flowing style.

Nydia M. Velázquez, Chairwoman

¹ See the Heroes Act, H.R. 925, Division F, Title II, section 203 (passed the House on October 1, 2020 (roll no. 214)).