Philadelphia Business Journal
https://www.bizjournals.com/philadelphia/news/2020/12/28/cpas-say-overriding-irs-edict-on-tax-deductibility.html

'Is there anything in there for me?': Local experts on what businesses need to know about new stimulus package

By Jeff Blumenthal – Reporter, Philadelphia Business Journal
Dec 28, 2020, 5:30am EST **Updated** Dec 28, 2020, 8:28am EST

Jordan Kendall, a tax partner in the Philadelphia office of accounting firm Marcum, has received numerous calls from business clients in recent days with questions about the $900 billion coronavirus relief bill passed by Congress.

“They are asking, 'Is there anything in there for me?'” Kendall said. “Everyone wants to know."

President Donald Trump signed the bill into law on Dec. 27.

Kendall and two other local CPAs offered their thoughts on what’s inside the $284 billion earmarked for the second iteration of the Paycheck Protection Program. All three believe the most important change is the override of an IRS ruling that barred small businesses from deducting from their taxes for expenses paid for with PPP loans.

“I think a lot of businesses needed it and expected it,” Drucker & Scaccetti partner Daniel Marques said.

Since April 3, over 5 million PPP loans valued at a combined $523 billion have been made to businesses in all 50 states. Without this congressional action, small businesses would be liable for an estimated $120 billion or more in taxes on forgivable PPP loans, according to a Dec. 9 letter from a bipartisan coalition of 179 members of the House of Representatives.

Business advocates have been pushing hard for the change since the IRS came out with the edict on April 30. The IRS said it was simply relying on traditional tax principles. The agency said it would be akin to receiving a double tax benefit to have income on debt forgiveness not taxed as income while allowing for tax deductions for the expenses paid with the forgiven loan money.

Many academics sided with the IRS, claiming the deductions would amount to a $100 billion tax deduction to the wealthy. Treasury Secretary Steven Mnuchin also argued against businesses being able to deduct business expenses paid with forgiven, tax-free PPP funds.

Congress had immediately said the IRS edict was contrary to the intent of PPP — the centerpiece of the $2 trillion CARES Act. The Small Business Expense Protection Act was introduced to overrule the IRS but the bill sat idle until being included in the latest stimulus.

“The IRS didn’t want to open a Pandora’s box so they left it up to Congress to override them,” said Ren Cicalese of Cherry Hill’s Alloy Silverstein. “But I think it will impact a lot of businesses who are going through the forgiveness process right now with the first round when tax season comes around.”

Here are a few other key changes that the CPAs believe will impact businesses.

- For those who already received a PPP loan earlier this year, they are eligible for a second loan of no more than $2 million if the business has less than 300 employees that can prove they sustained revenue reduction of at least 25% in the first, second or third quarter of 2020 relative to the same quarter in 2019. Marques said being able to choose just one quarter will be helpful but it could be difficult to prove.
- Small businesses that received an Economic Injury Disaster Loan (EIDL) cash advance can now see that money deducted from their PPP loan forgiveness. The rules previously stated that the cash advances would be deducted from any loan forgiveness they received under the PPP. The rule was meant to avoid so-called “double dipping” but also meant thousands of small, unforgiven portions of loans would have to be carried by banks on their balance sheets before they were paid off by small businesses — not exactly a cash grant as advertised. “The item I didn’t see coming was the EIDL cash advances becoming grants. It was sort of an 11th hour thing.”