FrankelZacharia LLC

Certified Public Accountants

PPP Forgiveness Training Guidance and Amended Return Opportunity

Recently, the IRS issued some revenue procedures that provide guidance to the timing of the tax-exempt income from the PPP loan forgiveness program and some grant proceeds, as well as subsidized payment for fees, interest and principal. When you own an S corporation or partnership, you receive a basis increase for your share of the business' tax-exempt income. If amounts are at risk or the basis is insufficient, timing can impact your business' ability to deduct your losses or distribute funds to the owners on a tax-free basis. It can also impact computation of your company's average annual gross revenue to determine whether your company is considered a small taxpayer that may be entitled to easier accounting methods. Let's take a look at all three of these new revenue procedures and how they'll impact your business.

Rev. Proc. 2021-48

Applying to the first- and second-draw PPP loans as well as CARES Act Sec. 1109 loans, Rev. Proc. 2021-48 gives you three alternatives where taxpayers can treat the amounts that are excluded from gross income as either received or accrued. The first is as expenses that can be forgiven which are paid or incurred as the earliest increase. The second is when the PPP loan forgiveness application was filed. The third is when PPP loan forgiveness was approved, which is the latest increase.

The first option allows you to treat tax-exempt income as accrued or received over a period of time and spread it out over multiple tax years, while the safe harbor under 2021-20 is treated as having paid or incurred eligible expenses in the subsequent tax year to the 2020 taxable year in which the expenses were incurred or paid. The other two treat tax-exempt income as accrued or received on a particular date.

The tax-exempt income from your PPP loan forgiveness can be reported either on timely-filed original or amended tax returns, or for partnerships, on administrative adjustment request (AAR) forms using provided guidance for adjustments. In some situations, you can combine this with revenue procedure 2021-50, below, for an option that allows eligible partnerships to amend returns under the provisions of revenue procedure 2021-48 or 2021-49.

Rev. Proc. 2021-49

This revenue procedure covers allocation of tax-exempt income of partners’ distributive shares, as well as related expenditures under Code Section 704(b), provided that allocations are under Treasury Regulation 1.704-1(b)(3). It also gives guidance on stock basis adjustment of the tax-exempt income for subsidiary C corporation consolidated group members.

Rev. Proc. 2021-50

This revenue process gives eligible partnerships an option for amending prior filed tax returns so that they can take advantage of revenue processes 2021-48 or 2021-49. These partnerships must be subject to centralized partnership audit regimes under the Bipartisan Budget Act of 2015 (BBA) and to who filed Form 2065, furnishing Schedules K-1 for partnership taxable years ending after March 27, 2020 and before the issuance of 2021-48 or 2021-49. Typically, BBA partnerships must file an AAR to make your adjustment under 2021-48 or 2021-49. But 2021-50 allows an amended return to get filed in place of the AAR process. The amended return and amended Schedule K-1 must be furnished to partners and filed on or before December 31, 2021, while complying with additional reporting requirements in Section 4 of 2021-50. Other potential changes can also be made under this procedure, including those not related to revenue procedures, on the amended return. However, it doesn't apply to partnerships which elected out of CPAR, though they can still file amended returns for tax-exempt income under the PPP loan forgiveness program under the 2021-48 options, provided the tax-exempt income wasn't included in the original return.

Should My Business Amend Our Return?

It can be difficult to figure out whether you should make changes to your return through an amended return, but it can often provide solid benefits. In this case, if your tax basis or your amounts at-risk are too low to allow your partners or shareholders in an S corporation to deduct their pass-through losses, or to receive their distributions tax-free, changing the timing of the tax-exempt income to an earlier point is probably beneficial. However, you'll want to carefully consider state income tax provisions, especially if you're in a state that taxes PPP loan forgiveness amounts. The timing can also impact tax basis for a selling owner when determining gain or loss in the sale of their partnership interest, or their stock in an S corporation. However, given the complexity of tax accounting, you'll want to take the time to work with your tax advisor to ensure you're making a smart decision that fits your company's overall tax planning goals.

If you're not comfortable or have questions about how these revenue procedures can impact your company's overall tax liability strategy, please contact Frankel Zacharia, LLC.
at 402.496.9100.