

Tax Treatment of Improperly Forgiven PPP Loans

Cross References

- Ltr. Rul. 202237010, August 19, 2022

A recent Chief Counsel Advice memorandum addressed the issue of whether a taxpayer must include PPP loan proceeds in gross income if the loan was forgiven, but the taxpayer did not qualify for forgiveness.

The taxpayer at issue made one or more representations that he or she satisfied the conditions for forgiveness of a PPP loan, but did not factually satisfy the conditions for a qualifying forgiveness. As a result, the PPP loan was forgiven improperly. The question before the Chief Counsel was: “Can the taxpayer exclude the amount of the forgiven loan from gross income?”

The memorandum stated if a taxpayer who does not factually satisfy the conditions for a qualifying forgiveness causes its lender to forgive the PPP loan by inaccurately representing that the taxpayer satisfies them, the taxpayer may not exclude the amount of the forgiven loan from gross income. The loan forgiveness would fall under the general rule that loan forgiveness is taxable if it does not satisfy any of the exclusion from income rules.