

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(Also Part I, §§ 704, 705, 1502; 1.1502-32.)

Rev. Proc. 2021-49

SECTION 1. PURPOSE

.01 This revenue procedure provides guidance for partnerships and consolidated groups regarding amounts excluded from gross income (tax exempt income) and deductions relating to the Paycheck Protection Program (PPP) and certain other COVID-19 relief programs. More specifically:

(1) This revenue procedure provides guidance for partners and their partnerships regarding:

(a) allocations under § 704(b) of the Internal Revenue Code (Code) of tax exempt income arising from the forgiveness of PPP Loans, the receipt of certain grant proceeds, or the subsidized payment of certain principal, interest and fees;

(b) allocations under § 704(b) of the Code of deductions resulting from

expenditures attributable to the use of forgiven PPP Loans or certain grant proceeds, or subsidized payments of certain interest and fees; and

(c) the corresponding adjustments to be made with respect to the partners' bases in their partnership interests under § 705 of the Code.

(2) This revenue procedure also provides guidance under § 1502 of the Code and § 1.1502-32 of the Income Tax Regulations regarding the corresponding basis adjustments for stock of subsidiary members of consolidated groups as a result of tax exempt income arising from certain forgiven PPP Loans, grant proceeds, or subsidized payment of certain principal, interest and fees.

.02 For guidance on the timing of tax exempt income arising from forgiven PPP Loans, see Rev. Proc. 2021-48, 2021-49 I.R.B. ____, released on November 18, 2021.

SECTION 2. BACKGROUND

.01 CARES Act.

(1) Overview. The PPP is a loan program administered by the U.S. Small Business Administration (SBA) and the Administrator of the SBA (Administrator) as part of the SBA's "7(a) Loan Program" under § 7(a) of the Small Business Act (15 U.S.C. § 636(a)).¹ Congress established the PPP to assist small businesses nationwide adversely affected by the COVID-19 emergency in paying payroll costs and other

¹ See §§ 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 286-94, 297-301 (Mar. 27, 2020), as amended by §§ 2 and 3 of the Paycheck Protection Program Flexibility Act of 2020, Public Law 116-142, 134 Stat. 641 (June 5, 2020); the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act) enacted as Title III of Division N of the Consolidated Appropriations Act, 2021 (CAA), Public Law 116-220, 134 Stat. 1182 (Dec. 27, 2020); § 276 of the COVID-related Tax Relief Act of 2020 (COVID Tax Relief Act), enacted as Subtitle B of Title II of Division N of the CAA; and the PPP Extension Act of 2021, Public Law 117-6, 135 Stat. 250 (Mar. 30, 2021). Section 304(b)(1)(A) of the Economic Aid Act redesignated § 1106 of the CARES Act (15 U.S.C. § 9005) as § 7A and transferred redesignated § 7A to be inserted to appear after § 7 of the Small Business Act (15 U.S.C. § 636).

eligible expenses.² Under the PPP, the Administrator may guarantee the full principal amount of a “covered loan,” as defined in § 7(a)(36)(A)(ii) of the Small Business Act, which for purposes of the PPP is a loan made under the PPP to an “eligible recipient,” as defined in § 7(a)(36)(A)(iv) of the Small Business Act, during the period beginning on February 15, 2020, and ending on May 31, 2021 (PPP First Draw Loan).³ A PPP First Draw Loan may be forgiven under § 7A of the Small Business Act.

(2) Authorization of lenders to participate in PPP. Section 1109(b) of the CARES Act allows the Department of the Treasury (Treasury Department), the Farm Credit Administration, and other Federal financial regulatory agencies to authorize bank and nonbank lenders, including insured credit unions, to participate in loans made under the PPP and provide PPP loans under § 1109 (Section 1109 Loans).⁴ Under § 1109(d)(2)(D) of the CARES Act, regulations establishing the terms and conditions of Section 1109 Loans must provide for forgiveness of Section 1109 Loans under terms and conditions that, to the maximum extent practicable, are consistent with the terms and conditions for loan forgiveness of PPP First Draw Loans under § 1106 of the CARES Act.

(3) Emergency EIDL Grants. Section 1110(e) of the CARES Act allows an eligible entity that applied for an Economic Injury Disaster Loan (EIDL) under § 7(b)(2) of the Small Business Act (15 U.S.C. § 636(b)(2)) in response to COVID-19 to request that the Administrator provide an advance that is not more than \$10,000 (an Emergency EIDL

² See Business Loan Program Temporary Changes; Paycheck Protection Program, 85 FR 20811 (Apr. 15, 2020).

³ See § 7(a)(2) of the Small Business Act and § 2 of the PPP Extension Act of 2021.

⁴ 134 Stat., at 304-306.

Grant). An applicant is not required to repay any amount of an Emergency EIDL Grant, even if the applicant is subsequently denied an EIDL under § 7(b)(2) of the Small Business Act or a PPP loan under § 7(a) of the Small Business Act. See § 1110(e)(5) of the CARES Act.

(4) Principal and interest payments of covered loans. Section 1112(c) of the CARES Act requires the Administrator to pay the principal, interest, and any associated fees with respect to covered loans in regular servicing status made before the date of enactment of the CARES Act, whether or not on deferment, and covered loans made within six months after the enactment of the CARES Act. Covered loans under this provision include loans:

(a) guaranteed by the SBA under the 7(a) Loan Program (including Community Advantage Loans but excluding PPP First Draw Loans) or under the 504 Loan Program established under title V of the Small Business Investment Act of 1958 (15 U.S.C. § 695 et seq.), and

(b) SBA microloan products made by an intermediary to certain small businesses using loans or grants received under § 7(m) of the Small Business Act (15 U.S.C. § 636(m)).

.02 Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act

(1) PPP Second Draw Loans. Section 311 of the Economic Aid Act amended § 7(a) of the Small Business Act to authorize Paycheck Protection Program Second Draw Loans (PPP Second Draw Loans) as covered loans under the same terms, conditions, and processes as PPP First Draw Loans. See § 7(a)(37)(B) of the Small Business Act (as added by § 311(a) of the Economic Aid Act). Congress authorized the

PPP Second Draw Loans to further assist those small businesses nationwide that continue to be adversely affected by the COVID-19 emergency. Similar to a PPP First Draw Loan, the Administrator is permitted to guarantee the full principal amount of a PPP Second Draw Loan made under the PPP to an “eligible entity,” as defined in § 7(a)(37)(A)(iv) of the Small Business Act, that has used or will use the full amount of a PPP First Draw Loan on or before the expected date on which the subsequent loan is disbursed to the eligible entity, and a PPP Second Draw Loan may be forgiven under § 7(a)(37)(J) of the Small Business Act (as added by § 311(a) of the Economic Aid Act). An individual or entity that receives a PPP First Draw Loan, a PPP Second Draw Loan, and/or a Section 1109 Loan, each a “PPP Loan” and collectively “PPP Loans,” may be eligible to receive forgiveness of the principal amount of the PPP Loan up to an amount (loan forgiveness amount) equal to the costs incurred and payments made during the “covered period,” as defined in § 7A(a)(4) of the Small Business Act, for the following “eligible expenses”: (1) payroll costs, (2) interest on a covered mortgage obligation, (3) any covered rent obligation payment, (4) any covered utility payment, (5) covered operations expenditures, (6) covered property damage costs, (7) covered supplier costs, and (8) covered worker protection expenditures.⁵ However, an individual or entity’s loan forgiveness amount may be reduced under “PPP loan forgiveness reduction rules” if the individual or entity experiences reductions in full-time equivalent employees or employee salary and wages during the covered period and the individual or entity does not qualify for any of the statutory or regulatory exemptions from the PPP

⁵ See § 7A(a) of the Small Business Act (as amended by § 304(b)(2) of the Economic Aid Act).

loan forgiveness reduction rules.⁶

(2) Shuttered Venue Operator Grants. Section 324(b) of the Economic Aid Act authorizes the SBA to make initial and supplemental grants to certain “eligible persons or entities,” which include live venue operators and promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theater operators, and talent representatives (Shuttered Venue Operator Grants). See § 324(a) of the Economic Aid Act (defining the term “eligible person or entity”).

(3) Extension of Emergency EIDL Grants program and Targeted EIDL Advances. Section 331 of the Economic Aid Act extends the Emergency EIDL Grant program to allow covered entities, as defined under paragraph (a)(2) of that section, to request to receive a total of \$10,000 under § 1110(e) of the CARES Act, without regard to whether the covered entity’s EIDL under § 7(b)(2) of the Small Business Act is, or was, approved or accepted and without regard to whether the covered entity received a PPP Loan (Targeted EIDL Advances). The covered entity is not required to repay any amount of the Emergency EIDL Grant, including the portion (if any) that comprises a Targeted EIDL Advance. See § 1110(e) of the CARES Act; § 331(b)(2)(A) of the Economic Aid Act.

.03 COVID Tax Relief Act.

(1) Forgiveness of PPP Loans.

(a) Overview. Section 276(a) of the COVID Tax Relief Act amended § 7A(i) of the Small Business Act (as redesignated, transferred, and inserted by § 304(b)(1)(A) of

⁶ See § 7A(d) of the Small Business Act (as amended by § 304(b)(2) of the Economic Aid Act) and Business Loan Program Temporary Changes; Paycheck Protection Program – Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act, 86 F.R. 8290 (Feb. 5, 2021).

the Economic Aid Act) to provide guidance regarding the Federal income tax treatment of the forgiveness of PPP First Draw Loans. Section 276(b) of the COVID Tax Relief Act provides substantially similar guidance with regard to PPP Second Draw Loans, as do § 278(a)(1) and (2) of the COVID Tax Relief Act with regard to Section 1109 Loans.

(b) Federal income tax treatment. Specifically, § 7A(i) of the Small Business Act and §§ 276(b) and 278(a)(1) and (2) of the COVID Tax Relief Act, as applicable, provide that, generally for purposes of the Code, no amount is included in the gross income of an eligible recipient or an eligible entity, as appropriate, by reason of the forgiveness of a PPP Loan and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income. Those sections also provide that, for eligible recipients and eligible entities, as appropriate, that are partnerships or S corporations, any amount excluded from gross income under § 7A(i) of the Small Business Act or § 276(b) or § 278(a)(3) of the COVID Tax Relief Act, as applicable, is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code. Section 7A(i) of the Small Business Act and §§ 276(b) and 278(a)(3) of the COVID Tax Relief Act further provide that, except as provided by the Secretary of the Treasury or her delegate (Secretary), any increase in the adjusted basis of a partner's interest in a partnership under § 705 of the Code with respect to amounts treated as tax exempt income under § 7A(i) of the Small Business Act, § 276(b) of the COVID Tax Relief Act, or § 278(a) of the COVID Tax Relief Act, as applicable, equals the partner's distributive share of deductions resulting from costs giving rise to the forgiveness of the PPP Loans.

(2) Emergency EIDL Grants and Targeted EIDL Advances. Section 278(b)(1)

and (2) of the COVID Tax Relief Act provide that any Emergency EIDL Grant or Targeted EIDL Advance is not included in the gross income of the person that receives such advance or funding, and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income.

Section 278(b)(3) of the COVID Tax Relief Act provides that, in the case of a partnership or an S corporation that receives such advance or funding, any amount excluded from gross income under § 278(b)(1) of the COVID Tax Relief Act is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code and that the Secretary is to prescribe rules for determining a partner's distributive share of any such advance or funding for purposes of § 705 of the Code.

(3) Subsidy for certain loan payments. Section 278(c)(1) and (2) of the COVID Tax Relief Act provide that any payment described in § 1112(c) of the CARES Act is not included in the gross income of the person on whose behalf such payment is made, and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income. Section 278(c)(3)(A) of the COVID Tax Relief Act provides that, in the case of a partnership or S corporation on whose behalf a payment described in § 1112(c) of the CARES Act is made, any amount excluded from gross income under § 278(c)(1) of the COVID Tax Relief Act is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code. Section 278(c)(3)(B) of the COVID Tax Relief Act provides that, except as provided by the Secretary, any increase in the adjusted basis of a partner's interest in a partnership under § 705 of the Code with respect to any such payment equals the sum of the partner's distributive share of deductions resulting from interest and fees described in § 1112(c) of the CARES Act

and the partner's share, as determined under § 752 of the Code, of principal described in § 1112(c) of the CARES Act.

(4) Shuttered Venue Operator Grants. Section 278(d)(1) and (2) of the COVID Tax Relief Act provide that any Shuttered Venue Operator Grant is not included in the gross income of the person that receives such grant, and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income. Section 278(d)(3) of the COVID Tax Relief Act provides that, in the case of a partnership or an S corporation that receives a Shuttered Venue Operator Grant, any amount excluded from gross income under § 278(d)(1) of the COVID Tax Relief Act is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code, and the Secretary is to prescribe rules for determining a partner's distributive share of any such grant for purposes of § 705 of the Code.

.04 American Rescue Plan.

(1) Supplemental Targeted EIDL Advances.

(a) Overview. Section 5002(b)(2)(B) of the ARP requires the Administrator to make additional Targeted EIDL Advances to covered entities that (1) have suffered an economic loss of greater than 50 percent and (2) employ not more than 10 employees (Supplemental Targeted EIDL Advances). The terms "covered entity" and "economic loss" have the meanings given the terms in § 331(a) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act. See § 5002(a)(2) of the ARP. The amount of a Supplemental Targeted EIDL Advance equals \$5,000, and is provided to a covered entity in addition to any Emergency EIDL Grant or Targeted EIDL Advance that the covered entity may have received.

(b) Federal income tax treatment. Section 9672(1) and (2) of the ARP provide that any Supplemental Targeted EIDL Advance is not included in the gross income of the person that receives such advance, and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income. Section 9672(3) of the ARP provides that, in the case of a partnership or an S corporation that receives a Supplemental Targeted EIDL Advance, any amount excluded from gross income under § 9672(1) of the ARP is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code, and the Secretary is to prescribe rules for determining a partner's distributive share of any such amount for purposes of § 705 of the Code.

(2) Restaurant Revitalization Grants.

(a) Overview. Section 5003(c) of the ARP requires the Administrator to make grants (Restaurant Revitalization Grants) of up to \$10 million in the aggregate (\$5 million in the aggregate per location) to eligible entities (including restaurants, food stands and food trucks, bars, and other similar establishments, but not including, among other prohibited recipients, publicly traded companies or chains of 20 or more locations) and affiliated businesses to cover pandemic-related revenue losses. See § 5003(a)(2), (4), and (7) of the ARP (defining "affiliated business," "eligible entity," and "pandemic-related revenue loss," respectively). The amount of any Restaurant Revitalization Grant is limited to the eligible entity's pandemic-related revenue loss, as determined pursuant to § 5003(a)(7) of the ARP and any guidance issued by the SBA, which is reduced by any amounts received through a PPP First Draw Loan or a PPP Second Draw Loan in 2020 or 2021. See § 5003(c)(4)(B)(i) and (a)(7) of the ARP. In addition, any amount of

a Restaurant Revitalization Grant made to an eligible entity based on estimated receipts that is greater than the actual gross receipts of the eligible entity in 2020 must be returned to the Treasury Department. See § 5003(c)(4)(B)(ii) of the ARP.

(b) Return of Funds to the Treasury Department. If an eligible entity that receives a Restaurant Revitalization Grant fails to use all grant funds or permanently ceases operations on or before the last day of the covered period, the eligible entity must return to the Treasury Department any funds that the eligible entity did not use for allowable expenses. See § 5003(c)(6) of the ARP. Section 5003(c)(5) of the ARP describes “allowable expenses” as including, among other expenses, payroll costs, payments of principal or interest on any mortgage obligation, rent payments, utilities, maintenance expenses, supplies, operational expenses, paid sick leave, and any other expenses that the Administrator determines to be essential to maintaining the eligible entity. See § 5003(c)(5) of the ARP (enumerating permitted uses of funds made available through a Restaurant Revitalization Grant). The covered period began on February 15, 2020, and ends on December 31, 2021, or a date to be determined by the Administrator that is not later than two years after the date of enactment of § 5003 of the ARP. See § 5003(a)(3) of the ARP.

(c) Federal income tax treatment. Section 9673(1) and (2) of the ARP provide that any Restaurant Revitalization Grant received from the Administrator is not included in the gross income of the person that receives such grant, and no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income. Section 9673(3) of the ARP provides that, in the case of a partnership or an S corporation that receives a Restaurant Revitalization Grant, except

as otherwise provided by the Secretary, any amount excluded from gross income under § 9673(1) of the ARP is treated as tax exempt income for purposes of §§ 705 and 1366 of the Code, and the Secretary is to prescribe rules for determining a partner's distributive share of any such amount for purposes of § 705 of the Code.

.05 Relevant Provisions under Subchapter K of the Code

(1) Partner's distributive share. Section 704(b) of the Code provides that a partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) is determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if (1) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or (2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect. In order for an allocation to have economic effect, it must be consistent with the underlying economic arrangement of the partners. This means in the event that there is an economic benefit or economic burden that corresponds to an allocation, the partner to whom the allocation is made must receive such economic benefit or bear such economic burden. See § 1.704-1(b)(2)(ii)(a) of the Income Tax Regulations.

(2) Determination of basis of partner's interest. Section 705(a)(1) of the Code provides that the adjusted basis of a partner's interest in a partnership is increased by the sum of the partner's distributive share for the taxable year and prior taxable years of (A) taxable income of the partnership as determined under § 703(a) of the Code, (B) income of the partnership exempt from tax under Title 26, and (C) the excess of the deductions for depletion over the basis of the property subject to depletion. Under

§ 705(a)(2) and (3) of the Code, a partner's adjusted basis in a partnership interest is decreased (but not below zero) by distributions by the partnership as provided in § 733 of the Code and by the sum of the partner's distributive share for the taxable year and prior taxable years of (A) losses of the partnership and (B) expenditures of the partnership not deductible in computing its taxable income and not properly chargeable to capital account; and decreased (but not below zero) by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under § 613A(c)(7)(D) of the Code.

.06 Relevant Provisions under Subchapter S of the Code

(1) Determination of S corporation shareholder's Federal income tax liability.

Section 1366(a)(1) of the Code provides, in part, that, in determining the Federal income tax of an S corporation shareholder under chapter 1 of the Code for the shareholder's taxable year in which the taxable year of the S corporation ends (or for the final taxable year of a shareholder who dies, or of a trust or estate which terminates, before the end of the S corporation's taxable year), there is taken into account the shareholder's pro rata share of the corporation's--

(a) items of income (including tax exempt income), loss, deduction (including expenses related to tax exempt income, whether deductible or non-deductible), or credit the separate treatment of which could affect the liability for tax of any shareholder; and

(b) nonseparately computed income or loss.

(2) Positive basis adjustments to stock of S corporation shareholders. Section 1367(a)(1) of the Code provides, in part, that the basis of each shareholder's stock in an

S corporation is increased for any period by the sum of the items of income described in § 1366(a)(1)(A) of the Code determined with respect to that shareholder for such period. Consequently, amounts excluded from gross income under § 7A(i) of the Small Business Act, § 276(b) of the COVID Tax Relief Act, and § 278(a) through (d) of the COVID Tax Relief Act are taken into account in accordance with each S corporation shareholder's pro rata share under § 1366(a)(1)(A), and accordingly increase the basis of the shareholder's stock in the S corporation under § 1367(a)(1).

.07 Relevant Provisions in the Consolidated Return Regulations

(1) Tax exempt income. Section 1.1502-32(b)(2) provides for adjustments to the basis in the stock of a member of a consolidated group (as defined in § 1.1502-1(h)) that is a subsidiary of one or more members (S), including positive adjustments for tax exempt income. See § 1.1502-32(b)(2)(ii). S's tax exempt income is defined as its income and gain which is taken into account but permanently excluded from its gross income under applicable law and which increases, directly or indirectly, the basis of its assets (or an equivalent amount). Section 1.1502-32(b)(3)(ii)(A).

(2) COD income. Section 1.1502-32(b)(3)(ii)(C)(1) provides that excluded discharge-of-indebtedness income (that is, excluded COD income) is treated as tax exempt income only to the extent the discharge is applied to reduce tax attributes attributable to any member of the group under § 108 or § 1017 of the Code, or § 1.1502-28 (implementing § 108 in a consolidated group). As described in section 2.03 of this revenue procedure, § 7A(i) of the Small Business Act, and §§ 276(b) and 278(a)(1) and (2) of the COVID Tax Relief Act, as applicable, provide that no amount is included in the gross income of a borrower by reason of forgiveness of a PPP Loan, and

that no deduction is denied, no tax attribute is reduced, and no basis increase is denied, by reason of such exclusion from gross income.

SECTION 3. SCOPE

This revenue procedure applies to a taxpayer that is described in section 3.01, 3.02, 3.03, 3.04, or 3.05 of this revenue procedure (Covered Taxpayer).

.01 A partnership or a member of a consolidated group that--

(1) Received a PPP Loan; and

(2) Received partial or complete forgiveness of the PPP Loan such that, in accordance with § 7A(i) of the Small Business Act, or §§ 276(b) or 278(a)(1) of the COVID Tax Relief Act, as applicable, the forgiveness amount is not included in the gross income of the eligible recipient, entity, or borrower.

.02 A partnership for which the SBA made payments with respect to a covered loan under § 1112(c) of the CARES Act.

.03 A partnership that received an Emergency EIDL Grant, a Targeted EIDL Advance, or a Shuttered Venue Operator Grant.

.04 A partnership that received a Supplemental Targeted EIDL Advance.

.05 A partnership that received a Restaurant Revitalization Grant.

SECTION 4. ALLOCATION OF CERTAIN PARTNERSHIP ITEMS AND PARTNERSHIP INTEREST BASIS ADJUSTMENTS

.01 Treatment for Covered Taxpayers that are partnerships. If a Covered Taxpayer that is a partnership satisfies all of the applicable requirements provided in section 4.02 of this revenue procedure, and complies with all information reporting requirements described in section 6 of this revenue procedure, the Internal Revenue Service (IRS)

will treat the Covered Taxpayer's allocation of amounts treated as tax exempt income and allocation of deductions described in section 4.02(1), (2), (3), or (4) of this revenue procedure (as the case may be) as determined in accordance with § 704(b) of the Code. Under § 705(a) of the Code, a partner's basis in its interest is increased by the partner's distributive share of tax exempt income and is decreased by the partner's distributive share of deductions described in section 4.02(1), (2), (3), or (4) of this revenue procedure.

.02 Requirements for Covered Taxpayers that are partnerships.

(1) Requirements for the allocation of deductions and amounts treated as tax exempt income arising in connection with the forgiveness of a PPP Loan. A Covered Taxpayer that is a partnership satisfies the requirements of this section 4.02(1) if all of the following conditions are met:

(a) The allocation of deductions resulting from expenditures giving rise to the forgiveness of a PPP Loan is determined under § 1.704-1(b)(3), according to the partners' overall economic interests in the partnership.

(b) The allocation of amounts treated as tax exempt income under § 7A(i) of the Small Business Act, § 276(b) of the COVID Tax Relief Act, or § 278(a) of the COVID Tax Relief Act, as applicable, is made in accordance with the allocation of the deductions described in section 4.02(1)(a) of this revenue procedure.

(c) If any expenditure giving rise to the forgiveness of a PPP Loan is required to be capitalized under the Code (capitalized expenditure), the allocation of amounts treated as tax exempt income under § 7A(i) of the Small Business Act, § 276(b) of the COVID Tax Relief Act, or § 278(a) of the COVID Tax Relief Act, as applicable, is made

in accordance with the allocation of the deemed loss, as provided in this section 4.02(1)(c), with respect to the capitalized expenditure's basis. Solely for purposes of this revenue procedure, the deemed loss with respect to the capitalized expenditure's basis is treated as a loss allowable as a deduction and is equal to the amount of loss that would be recognized if the property to which the capitalized expenditure relates were treated as disposed of in a fully taxable transaction for no consideration (hypothetical transaction) and, with respect to each partner, the allocation of the deemed loss associated with the capitalized expenditure's basis is determined under § 1.704-1(b)(3), according to the partners' overall economic interests in the partnership. The hypothetical transaction and resulting deemed loss are solely for purposes of determining the manner in which tax exempt income described in this section 4.02(1)(c) is allocated to the partnership's partners.

(2) Requirements for the allocation of deductions and amounts treated as tax exempt income arising in connection with payments made by the SBA on behalf of the taxpayer with respect to a covered loan under § 1112(c) of the CARES Act. A Covered Taxpayer that is a partnership satisfies the requirements of this section 4.02(2) if all of the following conditions are met:

(a) The allocation of deductions resulting from payments of interest and fees described in § 1112(c) of the CARES Act is determined under § 1.704-1(b)(3), according to the partners' overall economic interests in the partnership.

(b) The allocation of amounts treated as tax exempt income under § 278(c) of the COVID Tax Relief Act attributable to interest and fees described in § 1112(c) of the CARES Act is made in accordance with the allocation of the deductions described in

section 4.02(2)(a) of this revenue procedure.

(c) The allocation of amounts treated as tax exempt income under § 278(c) of the COVID Tax Relief Act attributable to payments of principal described in § 1112(c) of the CARES Act is made in accordance with each partner's share of the liability under § 752 of the Code and the regulations thereunder.

(d) If any expenditure related to the payment of interest and fees described in § 1112(c) of the CARES Act is required to be treated as a capitalized expenditure, the allocation of amounts treated as tax exempt income under § 278(c) of the COVID Tax Relief Act is made in accordance with the allocation of the deemed loss, as described in section 4.02(1)(c) of this revenue procedure, with respect to the capitalized expenditure's basis. Upon the hypothetical transaction, the allocation of the deemed loss is determined under § 1.704-(1)(b)(3), according to the partners' overall economic interests in the partnership. The hypothetical transaction and resulting deemed loss are solely for purposes of determining the manner in which tax exempt income described in this section 4.02(2)(d) is allocated to the partnership's partners.

(3) Requirements for the allocation of deductions and amounts treated as tax exempt income arising in connection with the taxpayer receiving an Emergency EIDL Grant, Targeted EIDL Advance, or a Shuttered Venue Operator Grant. A Covered Taxpayer that is a partnership satisfies the requirements of this section 4.02(3) if all of the following conditions are met:

(a) The allocation of deductions resulting from the expenditure of proceeds of an Emergency EIDL Grant, a Targeted EIDL Advance, or a Shuttered Venue Operator Grant is determined under § 1.704-1(b)(3), according to the partners' overall economic

interests in the partnership.

(b) The allocation of amounts treated as tax exempt income under § 278(b) and (d) of the COVID Tax Relief Act is made in accordance with the allocation of the deductions described in section 4.02(3)(a) of this revenue procedure.

(c) If any expenditure paid with the proceeds from an Emergency EIDL Grant, a Targeted EIDL Advance, or a Shuttered Venue Operator Grant is required to be treated as a capitalized expenditure, the allocation of amounts treated as tax exempt income under § 278(b) and (d) of the COVID Tax Relief Act is made in accordance with the allocation of the deemed loss, as described in section 4.02(1)(c) of this revenue procedure, with respect to the capitalized expenditure's basis. Upon the hypothetical transaction, the allocation of the deemed loss is determined under § 1.704-(1)(b)(3), according to the partners' overall economic interests in the partnership. The hypothetical transaction and resulting deemed loss are solely for purposes of determining the manner in which tax exempt income described in this section 4.02(3)(c) is allocated to the partnership's partners.

(4) Requirements for the allocation of deductions and amounts treated as tax exempt income arising in connection with the taxpayer receiving a Supplemental Targeted EIDL Advance or a Restaurant Revitalization Grant. A Covered Taxpayer that is a partnership satisfies the requirements of this section 4.02(4) if all of the following conditions are met:

(a) The allocation of deductions resulting from the expenditure of proceeds of a Supplemental Targeted EIDL Advance or a Restaurant Revitalization Grant is determined under § 1.704-1(b)(3), according to the partners' overall economic interests

in the partnership.

(b) The allocation of amounts treated as tax exempt income under §§ 9672 and 9673 of the ARP is made in accordance with the allocation of the deductions described in section 4.02(4)(a) of this revenue procedure.

(c) If any expenditure paid with the proceeds from a Supplemental Targeted EIDL Advance or a Restaurant Revitalization Grant is required to be treated as a capitalized expenditure, the allocation of amounts treated as tax exempt income under §§ 9672 and 9673 of the ARP is made in accordance with the allocation of the deemed loss, as described in section 4.02(1)(c) of this revenue procedure, with respect to the capitalized expenditure's basis. Upon the hypothetical transaction, the allocation of the deemed loss is determined under § 1.704-(1)(b)(3), according to the partners' overall economic interests in the partnership. The hypothetical transaction and resulting deemed loss are solely for purposes of determining the manner in which tax exempt income described in this section 4.02(4)(c) is allocated to the partnership's partners.

.03 Amended Returns. If a taxpayer has filed an original or amended Federal income tax return or information return, as applicable, for a taxable year ending after March 27, 2020, the taxpayer may file an amended return or an administrative adjustment request under § 6227 of the Code, as applicable, that reflects application of this revenue procedure. See Rev. Proc. 2021-50, 2021-49 I.R.B.____, released November 18, 2021, allowing eligible partnerships to file amended partnership returns under this revenue procedure if the requirements of section 3 of Rev. Proc. 2021-50 are met.

SECTION 5. STOCK BASIS ADJUSTMENTS REGARDING COVERED TAXPAYERS

THAT ARE MEMBERS OF CONSOLIDATED GROUPS

With regard to a Covered Taxpayer that is a member of a consolidated group, the IRS will treat any amount excluded from gross income under § 7A(i) of the Small Business Act, § 276(b) of the COVID Tax Relief Act, or § 278(a)(1) of the COVID Tax Relief Act, as applicable, as tax exempt income for purposes of § 1.1502-32(b)(2)(ii). A Covered Taxpayer that is a member of a consolidated group may rely on the IRS treatment provided by this section 5 only if the consolidated group attaches a signed statement to its consolidated tax return indicating that all Covered Taxpayers in the consolidated group are relying on this section 5 and reporting consistently.

SECTION 6. INFORMATION REPORTING BY PARTNERSHIPS THAT ARE COVERED TAXPAYERS

A Covered Taxpayer that is a partnership must report to the IRS all partnership items described in section 4 of this revenue procedure that the Commissioner of Internal Revenue or the Commissioner's delegate may require in forms, instructions, or other guidance.

SECTION 7. EFFECTIVE DATE

A taxpayer may apply this revenue procedure for any taxable year ending after March 27, 2020.

SECTION 8. DRAFTING INFORMATION

The principal authors of this revenue procedure are Katherine A. Waibler and Michael R. Gould of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Katherine A. Waibler at (202) 317-5056, and, regarding § 1.1502-32, Robert H. Liquerman at

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