



*Tony Evers*  
Governor

*Peter W. Barca*  
Secretary of Revenue

## **Clarification on Wisconsin tax treatment of PPP loans**

### **Why is the State of Wisconsin trying to tax PPP loans?**

The State of Wisconsin is NOT taxing the original forgiven PPP loans as income. The amount of forgiven PPP loans is not included as federal or Wisconsin taxable income.

Background: In the federal “CARES Act,” the federal government adopted a tax provision that exempted forgiven PPP loans from income tax. This allowed businesses to not have to pay taxes on these monies, which would otherwise have been treated as “income” and taxable under the Internal Revenue Code.

The state of Wisconsin adopted this federal provision in legislation that passed the Wisconsin legislature in April of 2020 and was signed by Governor Evers as 2019 Wisconsin Act 185. Therefore, the state of Wisconsin is not taxing these funds as income.

Please note that original PPP loans will affect tax returns for tax year 2020. The IRS has announced a start date of February 12, 2021 for filing federal tax returns.

### **Why doesn't the state of Wisconsin also allow businesses to deduct the expenses paid for with the original PPP loan proceeds?**

Allowing businesses to not only exempt the forgiven PPP loans from income, but also take business deductions for those expenses, would constitute a double benefit.

Background: Generally, businesses can take deductions for business expenses.

However, the Internal Revenue Code, Treasury Regulations, and case law are clear that businesses are not allowed to take business deductions when the income which paid for those business expenses is exempt from taxation, or the business is reimbursed or reasonably expects to be reimbursed for such expenses.

On December 27, 2020, the federal government enacted the Consolidated Appropriations Act (CAA). A specific statutory provision in the CAA allows businesses to deduct the business expenses paid for with forgiven PPP loan funds. This specific statutory provision supersedes prior federal law. Prior federal law, which Wisconsin follows, remains clear that you cannot take a business deduction for expenses that were paid for by a source of income that was not taxable.

### **Why doesn't Wisconsin just follow federal tax law?**

Wisconsin does not automatically follow federal tax law. Rather, Wisconsin follows the Internal Revenue Code, with certain exceptions, as of a certain date in time. Wisconsin's legislature then must act to specifically adopt into Wisconsin law the changes made to the Internal Revenue Code. The state has its own tax laws, and while there is generally a preference to follow federal tax law, Wisconsin can pass its own tax laws. Wisconsin has not adopted the provisions in the CAA that provide for the deductibility of business expenses paid for by the original PPP loans.

Acts of Congress generally do not necessarily change the tax laws of the state of Wisconsin. Congress could have passed laws to require states to follow its tax treatment for these provisions but did not do so.

**Why is it being called a double benefit?**

It is a double benefit because the business would both be allowed to exempt those forgivable PPP loans from income **AND** deduct the business expenses paid for with the funds. For example, see the illustration below.

A business with \$500,000 in total sales, who received a forgivable loan of \$50,000 and paid wages of \$200,000 would otherwise have taxable income of \$350,000, but that taxable income would be lowered to \$300,000 by allowing the double benefit of not include the funds as income, AND being able to deduct those expenses as business expenses.

	After CARES (PPP not taxable, but not deductible)	With CAA amendment to allow deductions
Total Sales (\$500,000)	\$500,000	\$500,000
PPP forgiven (\$50,000)	Not taxable (\$50,000)	Not taxable (\$50,000)
Wages (\$200,000)	\$150,000 (\$200,000-\$50,000)	\$200,000
Taxable income	\$350,000	\$300,000

**How much would it cost the state to adopt the provisions in the CAA which allow businesses to deduct businesses expenses paid for by the non-taxable PPP funds?**

The Legislative Fiscal Bureau recently estimated the cost to the state would be \$450 million. Unlike the federal government, the State of Wisconsin has a Constitutional obligation to maintain a balanced budget.

**What about Subsequent Rounds of the PPP, didn't Congress already pass legislation allowing these funds to be exempt from income?**

Yes. In the CAA, Congress passed provisions allowing for the exemption from income for Subsequent PPP and EDIL forgivable loans. Wisconsin has not adopted these provisions. Please note that Subsequent PPP loans are unlikely to affect 2020 tax returns.

**What about grants that businesses received with CARES Act money the state awarded (ie. Farm Support, We're all in, others)?**

The federal government did not provide an income exemption for state-paid grants. The exemptions that the federal government provided only apply to the federal-paid grants and loans.

The Wisconsin-based small businesses that received these grants will have to include those grants in their calculations for federal and Wisconsin income/franchise tax purposes. Because the grants are included in taxable income, business expenses paid for with the grants are deductible both for federal and Wisconsin purposes.