



Rhode Island Department of Revenue

Division of Taxation

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TAX ADMINISTRATION

ADVISORY FOR TAXPAYERS AND TAX PROFESSIONALS
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Further guidance on tax treatment of PPP loan forgiveness amounts

Division develops form on which to report taxable amount, compute tax due

PROVIDENCE, R.I. – The Rhode Island Division of Taxation today provides the following additional guidance on the Rhode Island tax treatment of Paycheck Protection Program (PPP) loan forgiveness amounts.

Latest guidance

Under recently enacted Rhode Island legislation, if the amount of PPP loan forgiveness for 2020 exceeds \$250,000, the increment above \$250,000 must be included in income for Rhode Island tax purposes. The Division has developed a form to report the amount by which PPP loan forgiveness for 2020 exceeds \$250,000. Taxpayers will also use the form to compute any tax due.

The new form -- Form RI-PPP -- includes instructions. Entities that have PPP loan forgiveness amounts for 2020 in excess of \$250,000 will receive the form and its instructions, including a notice, in the mail. The Division plans to begin the mailing on or about November 1, 2021. The completed form will be due December 15, 2021.

“Taxpayers will use this form to account for the increment of PPP loan forgiveness that is taxable for Rhode Island purposes for 2020, and to compute the tax due for 2020,” said Rhode Island Tax Administrator Neena Savage. After completing and signing the form, taxpayers will mail the form to the Division. They also may include a check for payment at the same time.

By statute, affected taxpayers have until March 31, 2022, to make payment, but providing payment with the form, by the form’s due date of December 15, 2021, may give taxpayers and tax professionals time to clear their desks ahead of the regular tax-filing season, which starts in January 2022.¹

The Division will mail Form RI-PPP - Entity, along with a notice and instructions, to each entity that had PPP loan forgiveness in excess of \$250,000 for 2020. Thus, an entity treated as a C corporation

WHAT'S NEW

This Advisory provides further information about the Rhode Island tax treatment of forgiven PPP loan amounts. Topics include the following:

- Latest guidance
- Examples
- Background

¹ Legislation enacted earlier this year, regarding taxes and PPP loans, requires the Division to waive interest and penalty on the portion of the forgiven PPP loan for 2020 that is taxed under the corporate income tax (Rhode Island General Laws Chapter 44-11), the bank excise tax (Chapter 44-14), and the personal income tax (Chapter 44-30) -- provided that the tax on that portion is paid in full by the taxpayer on or before March 31, 2022. The provision is available on the General Assembly website via the following link: <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H6122Aaa.pdf#page=133>.

for federal tax purposes, and an entity treated as a pass-through entity for federal tax purposes, will each receive the same form in the mail from the Division: Form RI-PPP - Entity.

Although there will be two versions of the new form -- one for entities and the other for individuals, the Division expects that the form for entities will be widely used and the form for individuals rarely used. Only the form for entities will be mailed; the form for individuals will be available only online. (Both forms will be on the Division's website soon.)

Examples

The following examples help to illustrate how today's guidance applies.

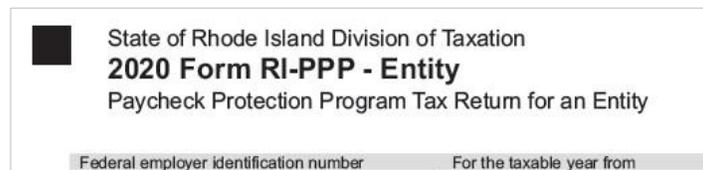
Example:

Corporation A has not filed its Rhode Island corporate income tax return for the 2020 tax year. Corporation A's PPP loan forgiveness for 2020 totaled \$270,000. None of that amount is treated as income for federal tax purposes. However, \$20,000 of that amount (in other words, the amount that exceeds Rhode Island's \$250,000 threshold -- the "\$20,000 increment") is treated as income for Rhode Island tax purposes.

Observing the Division's guidance as described above, Corporation A promptly files a complete and accurate Rhode Island corporate income tax return for the 2020 tax year -- but does not include the \$20,000 increment on that return.

When Corporation A receives Form RI-PPP - Entity (see screenshot below) and a related notice with instructions in the mail from the Division on or about November 1, 2021, Corporation A uses that form to report the \$20,000 increment and compute any tax due. Corporation A files its completed Form RI-PPP - Entity and mails it to the Division, with a check enclosed to cover the tax due, on or before December 15, 2021.

Thus, Corporation A is in compliance for 2020 with the new Rhode Island law involving the tax treatment of PPP loan forgiveness amounts and will not be subject to interest and penalty as a result of the \$20,000 increment. (Corporation A has the option to postpone payment until March 31, 2022.)



Example:

Taxpayer XYZ is treated as a pass-through entity for federal tax purposes and typically files an annual return on Form RI-1065 for Rhode Island tax purposes. Taxpayer XYZ has not filed its Form RI-1065 for the 2020 tax year. Taxpayer XYZ had a \$280,000 PPP loan, all of which was forgiven for 2020. None of that amount is treated as income for federal tax purposes. However, \$30,000 of that amount (in other words, the amount that exceeds Rhode Island's

\$250,000 threshold -- the “\$30,000 increment”) is treated as income for Rhode Island tax purposes.

Taxpayer XYZ promptly files a complete and accurate Form RI-1065 for the 2020 tax year -- but does not include the \$30,000 increment on that return.

When Taxpayer XYZ receives Form RI-PPP - Entity and a related notice with instructions in the mail from the Division on or about November 1, 2021, Taxpayer XYZ uses that form to report the \$30,000 increment and compute any tax due. Taxpayer XYZ files a completed Form RI-PPP - Entity and mails it to the Division, with a check enclosed to cover the tax due, on or before December 15, 2021.²

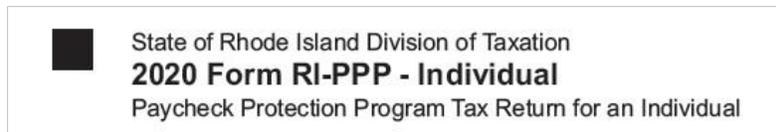
Thus, Taxpayer XYZ is in compliance for 2020 with the new Rhode Island law involving the tax treatment of PPP loan forgiveness amounts and will not be subject to interest and penalty as a result of the \$30,000 increment.

➤ Note: As a pass-through entity, Taxpayer XYZ has a choice:

- a) Pay the tax at the entity level, or
- b) Have the entity’s owners pay the tax at each owner’s level.³

If the pass-through entity chooses the first option, all it has to do is complete and file Form RI-PPP - Entity and make the tax payment.

However, if the pass-through entity chooses the second option, it must complete and file Form RI-PPP - Entity and provide each of the entity’s owners with a copy of the completed Form RI-PPP - Entity. Furthermore, each owner will then have to fill out his or her own Form RI-PPP - Individual, file the completed Form RI-PPP - Individual with the Division, and pay his or her proportionate share of the tax due.



Mainly for these reasons, the Division expects that most, if not all, entities will choose the first option mentioned above (in which the entity pays the tax on the owners’ behalf) because it is easier and more convenient for the taxpayers, their advisors, and the Division.

² Taxpayer XYZ has the option to postpone payment until March 31, 2022. Provided that payment is made in full on or before March 31, 2022, the Division will levy no late charges related to that tax.

³ The term “owner” is used here for convenience. (Depending on the pass-through entity, owners may be identified by other terms, such as shareholders, principals, or partners.)

Background

In 2020, the federal CARES Act established the Paycheck Protection Program (PPP).⁴ Implemented by the U.S. Small Business Administration (SBA) with support from the U.S. Department of the Treasury, the program was created to help businesses and nonprofits keep their workers employed during the coronavirus (COVID-19) pandemic.

Under the PPP, lenders issued loans, which were guaranteed by the SBA. Some borrowers qualified for PPP loan forgiveness. Federal and Rhode Island law differs with respect to the tax treatment of PPP loan forgiveness.

Under federal law, in general, PPP loan forgiveness is not treated as income for federal tax purposes.

Legislation approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Daniel J. McKee on July 6, 2021, addressed the issue of PPP loan forgiveness as it relates to the Rhode Island corporate income tax, bank excise tax, and personal income tax.⁵

Under that legislation, as enacted, if the amount of PPP loan forgiveness exceeds \$250,000, the increment above \$250,000 must be included in income for Rhode Island tax purposes.

Also under that legislation, as enacted, the Division must waive interest and penalty on the portion of the forgiven PPP loan for 2020 that is taxed under the corporate income tax (Rhode Island General Laws Chapter 44-11), the bank excise tax (Chapter 44-14), and the personal income tax (Chapter 44-30) -- provided that the tax on that portion is paid in full by the taxpayer on or before March 31, 2022.

In this Advisory, the Division provides its latest guidance on this subject. The Division may provide additional guidance on this topic in due course.

“Due to the complexity involved with implementing the provisions of this new law, prudence dictates that the Division proceed at a deliberate pace, taking the time and making the effort to ensure that the provisions are implemented fairly and transparently, taking into account the many scenarios involved,” Savage said.

MORE INFORMATION

On July 26, 2021, the Division posted a plain-language summary of tax-related legislation enacted in this year's General Assembly session. The summary included in-depth background, explanation, and guidance regarding the Rhode Island tax treatment of PPP loan forgiveness amounts. To view:

<https://go.usa.gov/xMZ2G>

⁴ The Coronavirus Aid, Relief, and Economic Security Act (also known as the CARES Act), which became U.S. Public Law 116-136 and took effect on March 27, 2020: <https://go.usa.gov/xM6WR>.

⁵ House Bill 6122, Substitute A, as amended: <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H6122Aaa.pdf>.

How to report PPP loan forgiveness amount for 2020 -- at a glance

NOTE: ALL SCENARIOS BELOW ASSUME THAT: THE PPP LOAN FORGIVENESS AMOUNT EXCEEDED \$250,000 FOR 2020, THE TAXPAYER IS AN ENTITY, AND THE ENTITY WILL PAY THE TAX AT THE ENTITY LEVEL.

I filed my 2020 return and did not include the PPP increment on that return.	<ul style="list-style-type: none">○ When you receive Form RI-PPP - Entity in the mail, complete it and submit it on or before December 15, 2021.○ You're encouraged, but not required, to submit payment with your completed Form RI-PPP - Entity on or before December 15, 2021.○ The latest you can make payment and still avoid penalty and interest is March 31, 2022.
I have not filed my 2020 return yet.	<ul style="list-style-type: none">○ Do not include PPP amount on that tax return.○ Instead, when you receive Form RI-PPP - Entity in the mail, complete it and submit it on or before December 15, 2021.○ You're encouraged, but not required, to submit payment with your completed Form RI-PPP - Entity on or before December 15, 2021.○ The latest you can make payment and still avoid penalty and interest is March 31, 2022.
I filed a 2020 return earlier this year and included the PPP amount on that return.	Contact the Division: <ul style="list-style-type: none">○ For the corporate income tax or the bank excise tax, email: Tax.Corporate@tax.ri.gov or phone: (401) 574-8935.○ For the personal income tax, email: Tax.Assist@tax.ri.gov or phone (401) 574-8829 and choose option #3.

Additional points

Form RI-PPP, including instructions, will be posted soon on the Division's website. When the posting occurs, it will be announced by the Division. Please check the Division's blog from time to time for updates: <http://rhodeislandtax.blogspot.com/>.

The Division is developing answers to frequently asked questions (FAQs) about the Rhode Island tax treatment of PPP loans and plans to post the FAQs soon.

The Rhode Island Division of Taxation has normal operating hours from 8:30 a.m. to 3:30 p.m. business days. For more information, contact the Division of Taxation at (401) 574-8829 or see <http://www.tax.ri.gov/contact>
