



Rhode Island Department of Revenue

Division of Taxation

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TAX ADMINISTRATION

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

Go ahead and file return; Division will provide further information in autumn

PROVIDENCE, R.I. – The Rhode Island Division of Taxation today provides additional guidance about the Rhode Island tax treatment of PPP loan forgiveness amounts.

The federal Paycheck Protection Program (PPP) was launched in early 2020 to provide loans, backed by the U.S. Small Business Administration, to help businesses and nonprofits keep their workforces employed during the coronavirus (COVID-19) pandemic. Some borrowers qualified for PPP loan forgiveness.

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.¹

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. In this Advisory, the Division provides its latest guidance on this subject.

Latest guidance

If you have not yet filed your Rhode Island tax return for the 2020 tax year, and the amount of your loan forgiveness for that year exceeds \$250,000, go ahead and file the return -- but do not include, on that return, the increment of loan forgiveness that is taxable for Rhode Island purposes.

The Division expects to provide additional guidance this fall that will address the following: a) how to account for the increment of loan forgiveness that is taxable for Rhode Island purposes, and b) how to ensure that the incremental amount will not subject you to interest and penalties.

“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,” said Rhode Island Tax Administrator Neena Savage.

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
- Penalty & interest waiver
- Prior guidance
- Q&A

¹ House Bill 6122, Substitute A, as amended: <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H6122Aaa.pdf>.

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. Corporation A then waits for the Division's additional guidance to be issued this fall. Through that guidance, Corporation A will learn how to account for the \$20,000 increment for Rhode Island tax purposes, and how to ensure that Corporation A will not be subject to interest and penalty as a result of the \$20,000 increment.

Example:

Taxpayer X, an individual, has not filed a Rhode Island personal income tax return for the 2020 tax year. Taxpayer X 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.

Observing the Division's guidance as described above, Taxpayer X promptly files a complete and accurate Rhode Island personal income tax return for the 2020 tax year -- but does not include the \$30,000 increment on that return. Taxpayer X then waits for the Division's additional guidance to be issued this fall. Through that guidance, Taxpayer X will learn how to account for the \$30,000 increment for Rhode Island tax purposes, and how to ensure that no interest and no penalty applies as a result of the \$30,000 increment.

Waiver of penalty, interest

The Rhode Island law 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.

Some taxpayers may be able to calculate the required tax now; other taxpayers may not. "Whichever is the case, taxpayers should be aware that there is no requirement to compute and pay the tax now, and that we are still developing the forms and instructions for computing and making the payment," said Rhode Island Tax Administrator Neena Savage. "Provided that the taxpayer pays the required amount on or before March 31, 2022, that amount will not be subject to interest or penalty," she said.

Prior guidance

On July 26, 2021, the Division posted a plain-language summary of tax-related legislation that was 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. That summary is available on the Division's website via the following link: <https://go.usa.gov/xFDEd>.

At the time that summary was posted:

- The Division pledged to provide further guidance to practitioners, taxpayers, and others about how to go about complying with the new law and its provisions. This Advisory is one of the ways in which the Division is fulfilling that pledge. The Division will post additional guidance in the fall.²
- The Division is in the process of preparing suitable forms with instructions for making tax payments on the taxable portion of forgiven PPP loans.³ The Division intends to post drafts on its website and will keep stakeholders informed.
- When the Division posted the summary in July, the Division advised taxpayers with taxable PPP loan amounts to hold off on filing the return until the Division's guidance was prepared and issued. Since then, the Division has had the opportunity to further study the new law and its effects. Therefore, with this Advisory, the Division recommends that each taxpayer with taxable PPP loan amounts should file a return -- but should not include, on that return, the increment of loan forgiveness that is taxable for Rhode Island purposes. The Division plans to provide additional guidance this fall that will address the following: a) how to account for the increment of loan forgiveness that is taxable for Rhode Island purposes, and b) how to ensure that the increment will not subject you to interest and penalties.

Questions and answers

The following questions and answers provide additional information for taxpayers and tax professionals regarding the Rhode Island tax treatment of PPP loan forgiveness amounts.

Q: I already filed my Rhode Island return earlier this year and did not list, as income on that return, any of my forgiven PPP loan amount, even though the forgiven PPP loan amount for 2020 exceeded \$250,000. Should I now file an amended return and include the portion of my forgiven PPP loan amount that exceeds \$250,000? And should I make a tax payment now on that taxable portion, or wait until you provide further guidance and any applicable forms and instructions?

In answer to the questions in the order in which they were asked:

Do not file an amended return. (If you file an amended return for other reasons, do not include, as income on that return, any of your forgiven PPP loan amount.) There is no need to make payment now on the taxable portion of your forgiven PPP loan amount. Provided that the tax on that portion is paid in full on or before March 31, 2022, the Division will waive interest and penalty on the portion of the

² Fall this year begins on September 22 and ends on December 21.

³ The waiver of interest and penalty as described here applies to the taxable portion of PPP loans forgiven during tax year 2020, provided that the tax on that portion is paid in full on or before March 31, 2022.

forgiven PPP loan 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).

In due course, the Division will provide further guidance, including forms and instructions, that will address how to account for the increment of loan forgiveness that is taxable for Rhode Island purposes, and how to go about making payment.

Q: My PPP loan for 2020 exceeded \$250,000 and was entirely forgiven. None of it is treated as income for federal purposes, but the portion that exceeds \$250,000 is treated as income for Rhode Island purposes. How do I calculate the tax attributable to PPP loan forgiveness that is due by March 31, 2022?

The Division is in the process of developing forms and instructions that you will use to calculate and properly report the tax due on the taxable portion of PPP loan forgiveness amounts for Rhode Island tax purposes. The Division will make it widely known, through various means, when the forms and instructions are publicly available.

Q: Immediately after enactment of the Rhode Island law involving the tax treatment of PPP loans, I filed my Rhode Island return and included the PPP increment as income on that return. What should I do?

Contact the Division by email or postal mail. The Division will deal with the matter you described on a case-by-case basis.

- 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.

The phones are typically staffed from 8:30 a.m. to 3:30 p.m. business days. The mailing address is:

Rhode Island Division of Taxation
One Capitol Hill
Providence, RI 02908

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>
