

August 4, 2020

The Honorable Chuck Grassley
Chairman
Senate Finance Committee
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Senate Finance Committee
Washington, D.C. 20510

The Honorable Richard Neal
Chairman
House Ways and Means Committee
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
House Ways and Means Committee
Washington, D.C. 20515

Dear Chairmen Grassley and Neal and Ranking Members Wyden and Brady:

On behalf of our members, the American Bankers Association¹ (ABA) writes to request that you consider in the forthcoming Phase IV economic relief package an important issue relating to the Paycheck Protection Program (PPP) and the small business borrowers served by PPP.

Section 1102 of the CARES Act established the PPP, which has provided a critical lifeline to nearly five million small businesses through loans for wages and other qualified expenses. If a participant in the PPP meets certain requirements, all or part of that loan may be forgiven. Section 1106 then provides that any amount that would otherwise be includible in gross income of the eligible recipient by reason of forgiveness shall be excluded from taxable income.

With this in mind, Internal Revenue Code Section 6050P and the regulations thereunder require that any applicable entity that discharges an indebtedness of any person of at least \$600 during a calendar year must file an information return on Form 1099-C, Cancellation of Debt, with the IRS. The regulations further require that upon an “identifiable event,” discharged indebtedness must be reported on Form 1099-C, **regardless of whether the debtor is subject to tax** on the discharged debt under Sections 61 and 108 or otherwise by applicable law. Our member banks have developed extensive processes and systems to timely capture the information that needs to be reported for various types of debt forgiveness (e.g., loans, credit cards, etc.).

Although these seem to be exceptional circumstances, our members are concerned that absent guidance providing for an exception from reporting, they may be required to report on Form 1099-C any amounts that are forgiven in situations where a debtor meets the requirements of the CARES Act to have their PPP indebtedness forgiven.

¹ The American Bankers Association is the voice of the nation’s \$20.3 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$15.8 trillion in deposits and extend nearly \$11 trillion in loans.

We appreciate that the IRS may provide instructions and related forms that will direct a taxpayer to report and then exclude the income on their tax return for the year of forgiveness. That said, we believe requiring this income to be reported on Form 1099-C will generate significant confusion and concern among the very taxpayers that the CARES Act was designed to help. We believe these concerns will occur even if the reporting institutions provide extensive background information to those taxpayers along with their Forms 1099-C.

If the policy objectives of the PPP are achieved, an enormous volume of potentially-reportable debt forgiveness income and related forms will be generated, perhaps up to five million based on the current estimates of the number of loans. Again, we believe this will cause significant confusion and concern from borrowers who rightly believe this PPP debt forgiveness is non-taxable.

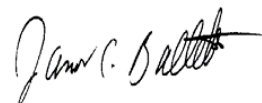
Our members have also raised operational concerns. Given the unique and unprecedented nature of PPP, member firms cannot rely on existing processes and systems to capture PPP debt forgiveness. If Form 1099-C reporting is required, lenders will be required to set up new systems and processes to capture the required information for reporting. Our members are now in the process of dimensioning the required changes and additions to systems and processes if this potential reporting requirement is not changed.

In previous comment letters, we have requested that IRS / Treasury issue guidance exempting this debt forgiveness income from reporting. To date, we have not received feedback on those requests. We ask that you consider adding language to upcoming COVID-related legislation to direct Treasury to address this issue.

We note that Section 20234 of the HEROES Act included language to address this issue. Although the proposed legislative language was helpful, it seemed to provide Treasury the option to correct this issue. We urge you to amend this language to require ([see here](#)) Treasury to take action. This correction will help millions of small businesses that have participated in the Paycheck Protection Program.

Thank you for your consideration of this important issue.

Sincerely,



James C. Ballentine

cc: The Honorable Marco Rubio
Chairman
Senate Small Business Committee

The Honorable Ben Cardin
Ranking Member
Senate Small Business Committee

The Honorable Nydia Velazquez
Chairwoman
House Small Business Committee

The Honorable Steve Chabot
Ranking Member
House Small Business Committee