

Congress of the United States
Washington, DC 20515

April 14, 2021

The Honorable Gavin Newsom
Governor
State of California
1303 10th Street, Suite 1173
Sacramento, California 95814

Dear Governor Newsom:

As you are well aware, California small business owners have recently voiced concerns about state tax treatment of business expenses paid for with forgiven Paycheck Protection Program (PPP) loan funding.

Congress has made it clear that its intent in creating the PPP was to provide hard-hit small businesses with the relief that they needed to weather the coronavirus pandemic. This included allowing PPP loans to be forgiven, provided loan recipients meet certain requirements. Recognizing that small businesses must utilize PPP loan funding for standard business expenses – such as payroll and other overhead costs – in order to meet such forgiveness requirements, Congress enacted the Consolidated Appropriations Act of 2021 (Public Law 116-260), which included, among other things, a provision making business expenses paid for with forgiven PPP loan funding deductible for Federal tax purposes. As payroll and other business expenses that are considered forgivable under the PPP would typically be deductible on state taxes in prior tax years, it is reasonable to conclude that many small businesses receiving PPP loan funding expected expenses covered with this funding to be tax deductible, planned accordingly, and acted as they would have prior to the coronavirus pandemic.

Upon Public Law 116-260 being signed into law, many states acted quickly to come into conformity with Federal tax treatment of business expenses paid for with forgiven PPP loan funding – allowing small business owners to deduct such expenses from their state taxes as they would have prior to the coronavirus pandemic and the subsequent creation of the Paycheck Protection Program. Unfortunately, California was not among these states, leaving small businesses – our constituents – wondering how to handle the impending tax season and quarterly payments of certain state taxes. Given that nearly every other state had enacted legislation to allow small business owners to deduct expenses paid with forgiven PPP loan funding prior to the enactment of the American Rescue Plan Act (Public Law 117-2), it is clear that California had ample time to reach an agreement on state tax treatment of expenses covered with PPP funding for businesses in our state, prior to enactment of this law.

The U.S. Department of the Treasury has recently stated that it intends to view any tax reduction actions by states as permissible, despite Section 9901 of Public Law 117-2, as long as such reduction actions pertain only to state income tax adjustments necessary to come into alignment with Federal income tax law. This should allow California to enact legislation to allow

small businesses in California to deduct expenses paid for with forgiven PPP loan funding from their state taxes. It is unconscionable that California relied on the U.S. Department of the Treasury to correct an error that is a direct result of California's inaction and congressional Democrats' overreaching policies.

Both Sacramento Democrats and Washington Democrats failed small business owners in our state. Squabbling by Sacramento Democrats over proposals allowing business owners to deduct up to a certain amount in business-related expenses paid for with forgiven PPP loan funding on their state taxes delayed swift passage of this vital state tax change prior to enactment of Public Law 117-2. Congressional Democrats, led by Speaker Pelosi, a fellow Californian, rammed the partisan America Rescue Plan Act (Public Law 117-2) through the House and Senate with a state tax cut ban (Section 9901). We are disappointed Congressional Democrats refused to work with their Republican colleagues to develop better, bipartisan coronavirus relief legislation that did not include this constitutionally-questionable tax cut ban, and could have entirely avoided this entire situation.

It is our hope that this situation is not compounded by further efforts to delay relief to California's small businesses and workers. Rather than limiting state tax conformity laws to a cap on business expense deductions, we believe your leadership is necessary to ensure the State Legislature passes tax relief allowing business owners in California to deduct all business-related expenses paid for with forgiven PPP loan funding on their state taxes, with no deduction cap, in conformity with the provisions established in Public Law 116-260 with regard to Federal taxes. Our small businesses need straightforward solutions to a problem borne of California's inaction, without imposing arbitrary caps.

California small business owners and entrepreneurs need state tax relief urgently, and it is our hope that you will oppose partial relief, and instead act swiftly toward enactment of comprehensive relief legislation that would provide full state tax deductibility for business owners that used PPP loan funding to pay for covered business expenses – in time for small business owners in our communities to deduct all forgiven PPP loan funding from their state taxes, rather than face uncertainty that may only further contribute to the struggles and losses that they have faced throughout the coronavirus pandemic and related lock-down mandates.

We look forward to your response.

Sincerely,



KEVIN McCARTHY
House Republican Leader



DOUG LaMALFA
Member of Congress



MIKE GARCIA
Member of Congress



DARRELL ISSA
Member of Congress



YOUNG KIM
Member of Congress



TOM McCLINTOCK
Member of Congress



KEN CALVERT
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DEVIN NUNES
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MICHELLE PARK STEEL
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DAVID G. VALADAO
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