

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/1/21
A Bill

HOUSE BILL 1060

By: Representative J. Mayberry

By: Senator A. Clark

For An Act To Be Entitled

AN ACT CONCERNING THE TAX TREATMENT OF CERTAIN FORGIVABLE SMALL BUSINESS LOANS AND EXPENSES RELATED TO THE CORONAVIRUS 2019 (COVID-19) CRISIS; TO EXEMPT CERTAIN FORGIVEN SMALL BUSINESS LOANS FROM INCOME TAX; TO PROVIDE AN INCOME TAX DEDUCTION FOR EXPENSES RELATED TO CERTAIN SMALL BUSINESS LOANS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE TAX TREATMENT OF FORGIVABLE SMALL BUSINESS LOANS AND EXPENSES RELATED TO THE CORONAVIRUS 2019 (COVID-19) CRISIS; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The Paycheck Protection Program was designed to assist small businesses that were adversely impacted by the coronavirus 2019 (COVID-19) pandemic in paying payroll and other eligible expenses;

(2) A loan under the program may be forgiven based on certain eligible expenses being paid or incurred;

(3) Under the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., loan amounts that are forgiven under the



program are excluded from income for tax purposes;

(4) The United States Department of the Treasury and the Internal Revenue Service have stated that a business cannot take a deduction for an eligible expense that is otherwise deductible if the payment of that eligible expense results in forgiveness of a loan under the program, but subsequent amendments to federal law have overridden this federal guidance;

(5) The intent of the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., was to allow businesses to receive a tax break during the coronavirus 2019 (COVID-19) pandemic and the resulting economic downturn by allowing businesses to deduct all of their ordinary and necessary expenses, including without limitation expenses used in determining whether a loan under the program should be forgiven; and

(6) Arkansas should allow businesses the full tax benefit that the United States Congress intended to provide in the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., by allowing businesses to deduct an eligible expense that would otherwise be deductible even if the payment of that eligible expense is used to determine loan forgiveness under the program.

(b) The General Assembly intends to allow businesses to deduct all eligible expenses regardless of whether the payment of those eligible expenses results in forgiveness of a loan under the program.

SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 3, is amended to add an additional section to read as follows:

26-51-317. Forgiven small business loans.

There is allowed an exemption from the income tax imposed under this chapter for any portion of a small business loan that is forgiven as part of the Paycheck Protection Program under the Small Business Act, 15 U.S.C. § 631 et seq., and the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., as they existed on January 1, 2021.

SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 4, is amended to add an additional section to read as follows:

26-51-462. Deduction – Expenses related to certain small business loans.

In computing net income for the purposes of this chapter, there is

allowed a deduction for eligible expenses related to a small business loan that is forgiven or is anticipated to be forgiven under the Small Business Act, 15 U.S.C. § 631 et seq., and the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., as they existed on January 1, 2021.

SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this act are effective for tax years beginning on or after January 1, 2019.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic caused an economic crisis in the state; that the Paycheck Protection Program was designed to assist small businesses that were adversely impacted by the coronavirus 2019 (COVID-19) pandemic in paying payroll and other eligible expenses; that the intent of the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., was to allow businesses to receive a tax break during the coronavirus 2019 (COVID-19) pandemic and the resulting economic downturn by allowing businesses to deduct all of their ordinary and necessary expenses, including without limitation expenses used in determining whether a loan under the program should be forgiven; and that this act is immediately necessary to allow businesses time for adequate fiscal and tax planning by clarifying the tax treatment of certain loans and expenses. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Mayberry