



Air Conditioning Contractors of America

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May 5, 2020

The Honorable Richard Neal  
Chairman  
House Committee on Ways and Means  
2309 Rayburn House Office Building  
Washington, D.C. 20515

Senator John Thune  
Chairman, Senate Finance Committee  
Subcommittee on Taxation and IRS Oversight  
511 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Kevin Brady  
Ranking Member  
House Committee on Ways and Means  
1011 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Mark Warner  
Ranking Member, Senate Finance Committee  
Subcommittee on Taxation and IRS Oversight  
703 Hart Senate Office Building  
Washington, D.C. 20510

**Re: IRS Notice 2020-32 regarding deductible expenses related to Paycheck Protection Program loans**

Dear Chairman Neal, Chairman Thune, Ranking Member Brady, and Ranking Member Warner:

Thank you for your continued leadership and support of small businesses during this economic and public health crisis.

The Air Conditioning Contractors of America (ACCA) represents nearly 60,000 HVACR professionals across the U.S. HVACR contractors are a backbone of the economy, responsible for ensuring modern medicine is possible, ensuring information technology centers are operational, maintaining a fresh supply of food, and providing essential comfort for nearly every hospital, office building, and home in the country. HVACR contractors provide more than comfort, they provide essential services that our economy depends upon and ACCA is the premier trade association representing this pillar of the economy.

On behalf of America's heating, ventilation, air conditioning, and refrigeration (HVACR) contractors, we ask that you help the Internal Revenue Service (IRS) understand and follow the intent of Congress with regard to allowing employers to deduct the businesses expenses that Payroll Protection Program (PPP). Based on our work with you and your colleagues it was clear the funds provided in Coronavirus Aid, Relief, and Economic Security Act (CARES Act) were not intended to be taxed.

The PPP has emerged as an essential lifeline for thousands of HVACR contractors across the country, allowing small businesses to fulfill obligations—namely payroll—in the face of severely diminished economic activity. As you know, the IRS issued guidance on Thursday April 30th stating, “that no deduction is allowed under the Internal Revenue Code (Code) for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the CARES Act.” This is contrary to the text of the CARES Act, which states any amounts forgiven by a PPP loan “shall be excluded from gross income.”

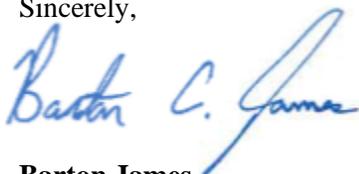
This ruling will cause a substantial and dramatic increase to the overall tax liability of PPP loan participants during a time where many are already experiencing extreme financial hardship—especially America’s HVACR Contractors. Our members and many of the small businesses like them that will once again serve as the backbone of the American Economy as we transition to reopening and recovery will be hit the hardest without this clarification, and will result in the opposite effect for those who the PPP was supposed to give relief to..

The IRS’s interpretation of the CARES Act runs contrary to the intent of Congress. It is not coherent policy to exclude an employer’s loan forgiveness income from tax liability, while simultaneously taking away the same amount in deductions. ACCA respectfully asks that Congress take rapid action to waive IRC Section 265, which severely limits the benefit of the PPP loan forgiveness for employers—including thousands of HVACR contractors. Congress intended PPP loan forgiveness to be tax free, and therefore should not place any additional tax burden on employers who are already struggling to survive. Thank you again for your continued leadership and support.

It makes little sense to exclude an employer’s PPP loan forgiveness income from tax liability with the one hand, only lose the same amount in deductions with the other hand. With many businesses struggling to stay afloat, it is imperative that the rescue measures enacted by Congress, including PPP loans, provide the maximum amount of flexibility to employers that they can. We strongly encourage you to convey to the IRS that Congress intended PPP loan forgiveness to be tax free, including waiving IRC Section 265, which would otherwise severely limit the benefit of PPP loan forgiveness, and create additional administrative burdens on employers. Absent clarification from the IRS, we encourage you to amend the CARES Act in subsequent legislation that would explicitly waive IRC Section 265 from applying to PPP loan forgiveness. Thank you again for your continued support.

If you our staff have questions or need additional information from our members in your state and district on the specific detrimental impact from this IRS interpretation please contact Chris Czarnecki, ACCA’s Government Relations Representative at [chris.czarnecki@acca.org](mailto:chris.czarnecki@acca.org) or myself.

Sincerely,



**Barton James**  
President & CEO