



SBA Information Notice

TO: All SBA Employees, 7(a) Lenders, Microloan Intermediaries, and Certified Development Companies

CONTROL NO.: 5000-20087

EFFECTIVE: January 28, 2021

SUBJECT: Updated Information on IRS Information Reporting Relating to the Payments Made on Behalf of Borrowers under Section 1112 of the CARES Act Based on Section 278 of the COVID-related Tax Relief Act of 2020

The purpose of this Notice is to update the information provided in Information Notice 5000-20067 (December Notice), effective December 8, 2020, on IRS information reporting relating to the payments made on behalf of borrowers by SBA under Section 1112 of the Coronavirus Aid, Recovery, and Economic Security Act (CARES Act).

Based on the recent enactment of Section 278(c) of the COVID-related Tax Relief Act of 2020, SBA is hereby informing Microloan Intermediaries (Intermediaries) and 7(a) Lenders that they are no longer required to file Form 1099-MISC, Miscellaneous Income, with the IRS or furnish this form to the small businesses on whose behalf the SBA made Section 1112 payments.

Section 1112 Payments Excluded from Gross Income for Purposes of Internal Revenue Code

In April 2020, SBA began making payments under Section 1112 of the CARES Act to cover, for a 6-month period, the principal, interest, and any associated fees that small businesses owe on certain 7(a) loans, 504 loans, and Microloans ("Section 1112 payments"). The December Notice stated that, in accordance with section 6041 of the Internal Revenue Code and the regulations thereunder, 7(a) Lenders and Microloan Intermediaries would be responsible for filing Form 1099-MISC, Miscellaneous Income, with the IRS and furnishing this form to the small businesses on whose behalf the SBA made Section 1112 payments.

However, Section 278(c) of the COVID-related Tax Relief Act of 2020, enacted on December 27, 2020, provides that, for purposes of the Internal Revenue Code of 1986, "any payment described in section 1112(c) of the CARES Act shall not be included in the gross income of the person on whose behalf such payment is made." Accordingly, because the Section 1112 payments are excluded, for purposes of the Internal Revenue Code of 1986, from the gross income of the person on whose behalf the payment was made, Intermediaries and 7(a) Lenders

should not file or furnish Form 1099-MISC with respect to Section 1112 payments that were made during calendar year 2020. Certified Development Companies (CDCs) are advised that SBA will also not be filing or furnishing Forms 1099-MISC on Section 1112 payments to 504 borrowers.

SBA is also informing Intermediaries, 7(a) Lenders, and CDCs that this exclusion of Section 1112 payments from gross income for purposes of the Internal Revenue Code of 1986 applies to any Section 1112 payments that SBA will make in the future under the extension of the debt relief program authorized by Section 325 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, enacted December 27, 2020.

Reporting Interest Paid by Section 1112 Payments on Form 1098

Section 278(c)(2) of the COVID-related Tax Relief Act of 2020 provides that “no deduction shall be denied by reason of the exclusion [of the Section 1112 payments] from gross income.” Including the amount of interest paid on the loan by the Section 1112 payments on the Form 1098, Mortgage Interest Statement, furnished to small businesses will inform those businesses of the amount of Section 1112 mortgage interest they may deduct. In addition, including the amount of interest paid on the loan by the Section 1112 payments on the Form 1098 filed with the IRS will avoid discrepancies between interest reported to the IRS and interest claimed for deduction by small businesses.

SBA will follow the guidance described in this Notice with respect to 504 loans, the Microloans serviced by SBA, and the 7(a) loans that have been purchased, and are serviced, by SBA.

IRS Notice

For further information regarding the waiver of information reporting requirements related to the Section 1112 payments, please refer to the notice issued by the IRS, Notice 2021-06, Waiver of Information Reporting Requirements with Respect to Certain Amounts Excluded from Gross Income, which is available at <https://www.irs.gov/pub/irs-drop/n-21-06.pdf>.

Questions

Questions on this Notice may be directed to the Lender Relations Specialists in the local SBA Field office. The local SBA Field office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>. For tax information or advice related to this Notice, contact your tax advisor or accountant or IRS’s Stakeholder Liaison Local Contacts at <https://www.irs.gov/businesses/small-businesses-self-employed/stakeholder-liaison-local-contacts>.

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