

# Insights

## **IRS Instructs Lenders not to File Form 1099-C for Forgiveness of Paycheck Protection Program Loans**

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In Announcement 2020-12, released September 22, 2020, the Internal Revenue Service (IRS) informed lenders that they should not report qualifying loan forgiveness amounts from covered loans made under the Paycheck Protection Program (PPP) by filing Form 1099-C with the IRS.

### **Background**

As described in more detail in our alert dated June 25, 2020 available [here](#), Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) established the PPP, which allowed qualifying small businesses to obtain loans administered and guaranteed by the Small Business Administration under Section 7(a)(36) of the Small Business Act (15 U.S.C. §636(a)(36)). Under Section 1106 of the CARES Act, a recipient of a PPP loan is eligible for forgiveness of indebtedness for all or a portion of the stated principal amount of the loan if certain conditions are satisfied.

Generally, under Section 6050P of the Internal Revenue Code (Code) and related Treasury Regulations, a lender is required to report the amount of loan forgiveness of \$600 or more on a Form 1099-C (*Cancellation of Debt*) when it agrees to reduce or completely discharge a debt, as such amounts generally represent taxable gross income to the debtor under Section 61(a)(11) of the Code. In addition to filing the information return with the IRS, the lender generally must provide a payee statement (*i.e.*, copy of the information return) to the borrower.

### **Announcement 2020-12**

Announcement 2020-12 instructs lenders that they should not file a Form 1099-C with respect to the forgiveness of a PPP loan, nor should they send the PPP borrower a payee statement, as the filings of the information returns could result in the IRS incorrectly issuing “underreporter notices” to the loan recipients. In addition, the furnishing of payee statements could cause confusion for the loan recipients. As a result, rather than merely stating that lenders are *not obligated to file* the information returns or provide the payee statements, Announcement 2020-12 states that lenders *should not file* the Form 1099-C or provide the payee statements.

If you have any questions regarding Announcement 2020-12, PPP loan forgiveness or the CARES Act, please contact **Robert A. Greising**, **Kendall A. Schnurpel** or your regular Krieg Devault attorney.