

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H2/1/21

A Bill

HOUSE BILL 1060

5 By: Representative J. Mayberry
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE TAX TREATMENT OF CERTAIN
10 FORGIVABLE SMALL BUSINESS LOANS AND EXPENSES RELATED
11 TO THE CORONAVIRUS 2019 (COVID-19) CRISIS; TO EXEMPT
12 CERTAIN FORGIVEN SMALL BUSINESS LOANS FROM INCOME
13 TAX; TO PROVIDE AN INCOME TAX DEDUCTION FOR EXPENSES
14 RELATED TO CERTAIN SMALL BUSINESS LOANS; TO DECLARE
15 AN EMERGENCY; AND FOR OTHER PURPOSES.
16
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Subtitle

19 CONCERNING THE TAX TREATMENT OF
20 FORGIVABLE SMALL BUSINESS LOANS AND
21 EXPENSES RELATED TO THE CORONAVIRUS 2019
22 (COVID-19) CRISIS; AND TO DECLARE AN
23 EMERGENCY.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

29 (a) The General Assembly finds that:

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

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

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



1 program are excluded from income for tax purposes;

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

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

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

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

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

25 26-51-317. Forgiven small business loans.

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

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

34 26-51-462. Deduction – Expenses related to certain small business
35 loans.

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

1 allowed a deduction for eligible expenses related to a small business loan
2 that is forgiven or is anticipated to be forgiven under the Small Business
3 Act, 15 U.S.C. § 631 et seq., and the Coronavirus Aid, Relief, and Economic
4 Security Act, 15 U.S.C. § 9001 et seq., as they existed on January 1, 2021.
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6 SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this act are effective
7 for tax years beginning on or after January 1, 2019.
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9 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
10 General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-
11 19) pandemic caused an economic crisis in the state; that the Paycheck
12 Protection Program was designed to assist small businesses that were
13 adversely impacted by the coronavirus 2019 (COVID-19) pandemic in paying
14 payroll and other eligible expenses; that the intent of the Coronavirus Aid,
15 Relief, and Economic Security Act, 15 U.S.C. § 9001 et seq., was to allow
16 businesses to receive a tax break during the coronavirus 2019 (COVID-19)
17 pandemic and the resulting economic downturn by allowing businesses to deduct
18 all of their ordinary and necessary expenses, including without limitation
19 expenses used in determining whether a loan under the program should be
20 forgiven; and that this act is immediately necessary to allow businesses time
21 for adequate fiscal and tax planning by clarifying the tax treatment of
22 certain loans and expenses. Therefore, an emergency is declared to exist,
23 and this act being immediately necessary for the preservation of the public
24 peace, health, and safety shall become effective on:

25 (1) The date of its approval by the Governor;

26 (2) If the bill is neither approved nor vetoed by the Governor,
27 the expiration of the period of time during which the Governor may veto the
28 bill; or

29 (3) If the bill is vetoed by the Governor and the veto is
30 overridden, the date the last house overrides the veto.
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32 /s/J. Mayberry
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