

Correction of Forms 1099-MISC for Certain CARES Act Subsidized Loan Payments

Announcement 2021-2

This announcement notifies lenders who have filed with the Internal Revenue Service (IRS), or furnished to a borrower, a Form 1099-MISC, *Miscellaneous Information*, reporting certain payments on loans subsidized by the Administrator of the U.S. Small Business Administration (Administrator) as income of the borrower that the lenders must file and furnish corrected Forms 1099-MISC that exclude these subsidized loan payments.

Section 1112(c) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281, 309-310 (March 27, 2020) (CARES Act), 15 U.S.C. 9011(c), authorizes the Administrator to subsidize certain payments of principal, interest, and any associated fees owed by a borrower on certain loans. Section 278(c)(1) of the COVID-related Tax Relief Act of 2020 (COVID Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182 (December 27, 2020), retroactively provides that such a payment is not included in the gross income of the person on whose behalf the payment

is made. This provision is effective for taxable years ending after March 27, 2020, the date of the enactment of the CARES Act. Section 278(e)(1) of the COVID Relief Act. Section 278(c)(2) provides that no deduction shall be denied by reason of the exclusion of the loan payments from gross income.

Section 279 of the COVID Relief Act authorizes the Secretary of the Treasury or the Secretary's delegate to provide an exception with respect to any amount excluded from gross income by reason of section 278 of the COVID Relief Act from any requirement to file an information return otherwise required under chapter 61 of the Internal Revenue Code (Code), including information returns and payee statements required to be filed or furnished under section 6041 of the Code.

On January 19, 2021, the Department of the Treasury and the IRS issued, pursuant to section 279 of the COVID Relief Act, Notice 2021-6, 2021-06 I.R.B. ____, to waive the requirement for lenders to file with the IRS, or furnish to a borrower, a Form 1099-MISC reporting the payment of principal, interest, and any associated fees subsidized by the Administrator under section 1112(c) of the CARES Act. The filing of information returns that include these loan payments could result in IRS correspondence to borrowers regarding underreported income, and the furnishing of payee statements that include these loan payments to borrowers could cause confusion.

If a lender has already furnished to borrowers Forms 1099-MISC that report these loan payments, whether before, on, or after December 27, 2020, the lender must furnish to the borrowers corrected Forms 1099-MISC that exclude these loan payments. In addition, if a lender has already filed with the IRS Forms 1099-MISC that report these

loan payments, whether before, on, or after December 27, 2020, the lender must file with the IRS corrected Forms 1099-MISC that exclude these loan payments. Directions for how to file corrected Forms 1099-MISC are included in the 2020 Instructions for Forms 1099-MISC and 1099-NEC and the 2020 General Instructions for Certain Information Returns. If a lender described in this announcement furnishes corrected payee statements within 30 days of the furnishing deadline, it will have reasonable cause for any failure-to-furnish penalty imposed under section 6722. A lender described in this announcement must file corrected information returns by the filing deadline in order to avoid section 6721 failure-to-file penalties.

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