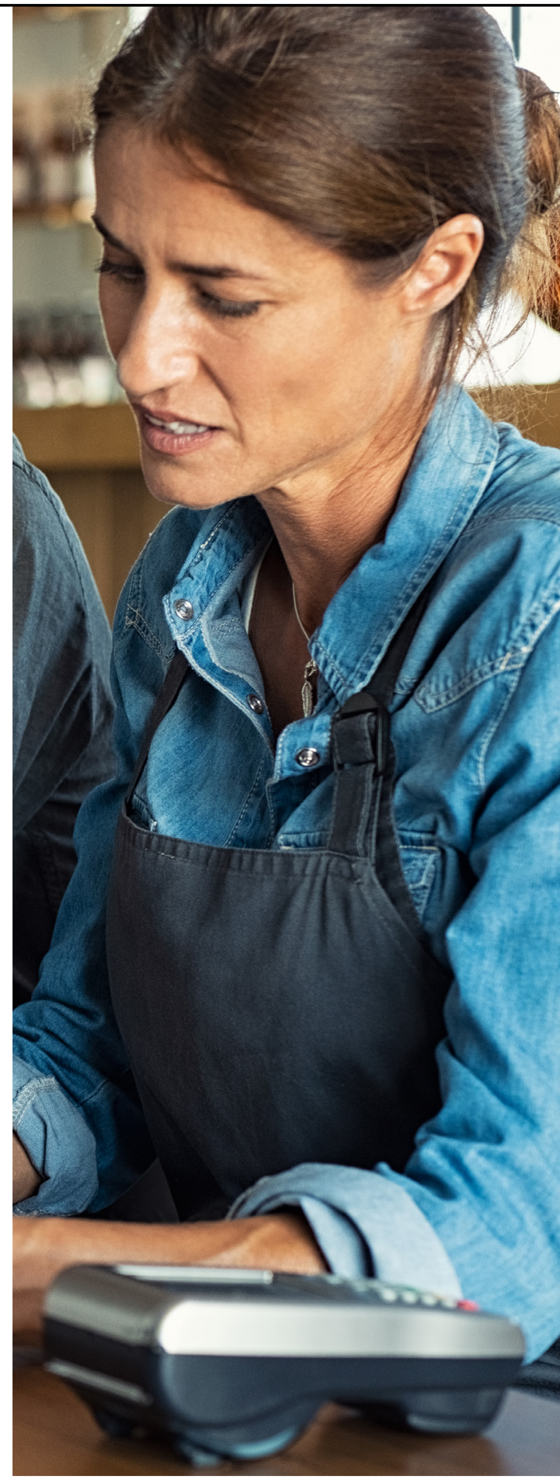
PROTECT RESTAURANTS FROM SURPRISE PPP TAXES

NATIONAL RESTAURANT ASSOCIATION



WHAT RESTAURANTS NEED

- **For lawmakers to ensure business expenses paid with Paycheck Protection Program (PPP) loans are tax deductible — as Congress intended when the program was created.**
- **To eliminate the risk of substantial tax liability restaurants will face if no action is taken.**

HOW DO TO IT: Congress must pass the bipartisan *Small Business Expense Protection Act* (S. 3612/H.R. 6821). Restaurants experiencing the economic devastation of COVID-19 should not be taxed on the payroll, utilities, and rent or mortgage expenses they paid with emergency PPP loans.

BACKGROUND: When Congress created the PPP in March 2020, they made clear to small businesses that forgiven PPP expenses would be tax deductible. Restaurants used PPP to keep employees on payroll — even while the restaurant was closed. But the Internal Revenue Service (IRS) has now formally warned that businesses should expect a massive "clawback."

The IRS position states that normally deductible business expenses are not deductible if the business pays the expense with a PPP loan that is subsequently forgiven. This creates an unexpected tax liability of 25%-35% on forgiven loans.

The National Restaurant Association strongly supports the *Small Business Expense Protection Act* (S. 3612/H.R. 6821). This legislation codifies the intent of Congress, protects small businesses, and will not cost the federal government any additional money. We appreciate that the House of Representatives fixed the issue as part of the HEROES Act, and urge this provision be included in the next joint agreement.

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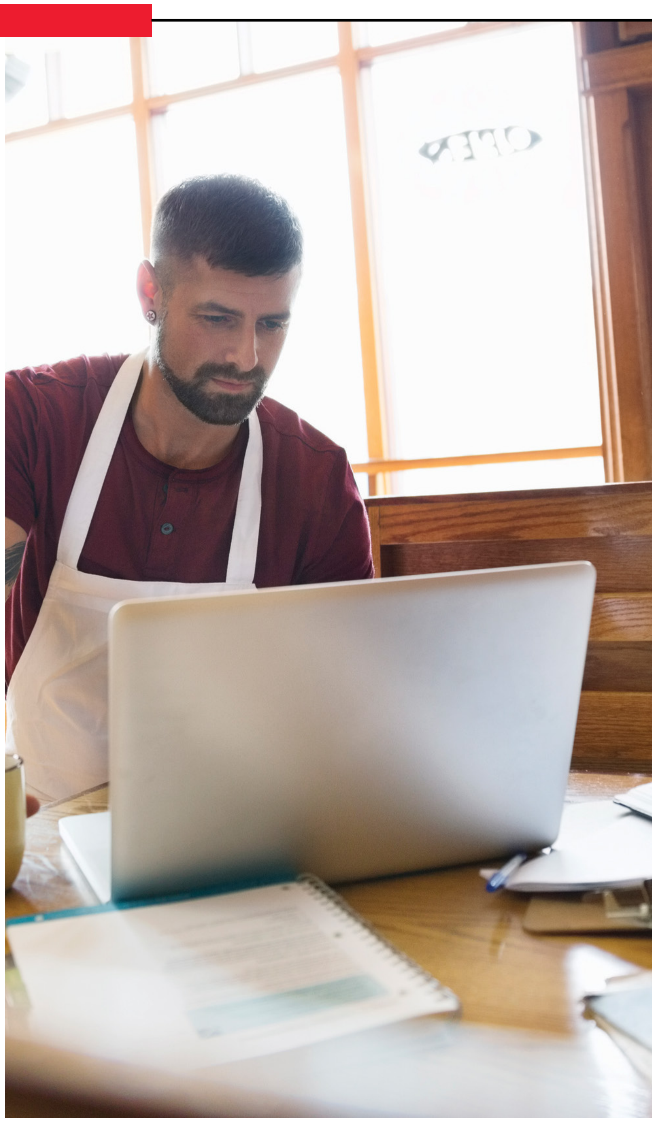

- **One restaurant operator in Marion, Indiana, is facing an unexpected $182,000 tax burden** due to this deductibility issue.
- **Another restaurant in Greenville, South Carolina, with over 300 employees is considering closing** if these taxes are due. Restaurants simply cannot afford to lose this liquidity when cash on hand is already under tremendous stress.

In the Senate, the *Small Business Expense Protection Act* was introduced by Senator John Cornyn (R-TX) and is cosponsored by almost half of the Senate Finance Committee — including both Chairman Chuck Grassley (R-IA) and Ranking Democrat Ron Wyden (D-OR). The bill is also sponsored by Senate Small Business Committee Chairman Marco Rubio (R-FL).

> "WE PRAY THAT ANY LEGISLATION EXPANDING OR CONTINUING THE PPP REFLECTS THE PROTECTIONS FOUND IN THE *SMALL BUSINESS EXPENSE PROTECTION ACT OF 2020*."
>
> *- Family-owned restaurant in San Antonio*

> "IF WE WERE TO LOSE TAX DEDUCTIBILITY BASED ON PPP LOAN FORGIVENESS, IT WOULD BE VERY COSTLY. IN A TIME OF SEVERE CASH SHORTAGES, INCREASING TAX LIABILITY IS COMPLETELY NONSENSIBLE AND COUNTER TO EFFORTS TO SAVE THE RESTAURANT INDUSTRY."
>
> *- Family-owned restaurant based in Houston*

> "THIS WOULD COST US 30% OF OUR EMERGENCY PPP LOAN, EVEN AS HALF OF OUR RESTAURANTS ARE STILL LOSING MONEY."
>
> *- Restaurant franchisee based in North Carolina*