

TO: NAW Direct Members

FROM: NAW Government Relations Team

***RE: NAW Critical Update Number 44 – May 7 at 4:30 PM***

## **1. Latest on the Main Street Lending Program**

As of today – yet again – no MSLP launch date has been announced. We will continue to monitor the Federal Reserve for information and provide you with any relevant and timely updates.

## **2. Latest on the Paycheck Protection Program**

Last week, the IRS issued guidance that prevents businesses from deducting expenses like rent and wages to the extent those expenses were part of a forgiven loan from the Paycheck Protection Program. Such expenses are normally deductible.

NAW, along with our association allies, sent a thank you letter this afternoon with 146 signatures to Chairman Neal and Chairman Grassley thanking them for sending a letter to the IRS earlier this week on this matter and encouraging them to pursue a legislative remedy if the IRS does not act.

To read the letter, go to:

<https://www.naw.org/wp-content/uploads/2020/05/IRS-Notice.pdf>

SBA/Treasury have released another update to their PPP FAQ document. This new question/answer, Number 45, deals with the Employee Retention Tax Credit (ERTC). Under the CARES Act, the PPP and ERTC are mutually exclusive – a company cannot take both the PPP loan and the ERTC. Question/Answer 45 makes it clear that if a company received a PPP loan but returns it by May 14th, the company will be eligible to take the ERTC.

To read the updated FAQ document, go to:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

Also, following up on our report yesterday: many thanks to those of you who provided us feedback on public disclosure of the recipients and details of PPP loans. The feedback has been very helpful. If you have not sent us your comments, please do! We are still assembling responses to help inform our response to Congressional calls for “transparency” and making loan details public.

Yesterday, Senator John Cornyn, along with a bipartisan group of Senators, sent a letter to Secretary of the Treasury Steven Mnuchin and Administrator of the Small Business Administration (SBA) Jovita Carranza urging changes to the forgiveness criteria of the Paycheck Protection Program (PPP) loans to help small businesses and particularly restaurants, which tend to have lower payroll expenses, use the program to stay afloat during the pandemic.

Specifically, the Senators recommended the loan forgiveness requirement that 75% of the loan be spent on payroll (with 25% allowed to be spent on other expenses), be reduced to 50% or lower.

*The 25 percent threshold is problematic for several business sectors, especially those whose mortgage, rent, or utility payments constitute a large portion of fixed monthly expenses,” the Senators wrote. “If they are unable to cover these expenses, they will have to decide between keeping their doors open, at personal financial risk, or closing shop and laying off employees. These are businesses that will not recover. Such an outcome would result in mass layoffs that would shift more Americans onto unemployment, presenting significant long-term costs to families, businesses, and states.*

*We ask that you exercise the power of your respective offices to ensure all business sectors are able to spend at least 50 percent of the loan proceeds on the statutorily allowed non-payroll expenses. Access to loan forgiveness was a critical component of the CARES Act and making it as effective as possible will help further the CARES Act’s goal of supporting small businesses while keeping American workers employed.*

To read the letter, go to:

[https://www.cornyn.senate.gov/sites/default/files/PPP%20forgiveness%20letter\\_final\\_.pdf](https://www.cornyn.senate.gov/sites/default/files/PPP%20forgiveness%20letter_final_.pdf)

*The Economic Injury Disaster Loan program (EIDL):* According to a *Washington Post* story today, the emergency disaster lending program for small businesses has been so overwhelmed by demand that it has significantly limited the size of loans it issues, while

blocking nearly all new applications from small businesses, according to people familiar with the situation.

The EIDL program is a long-standing SBA program that's separate from the new Paycheck Protection Program. After initially telling businesses that individual disaster loans could be as high as \$2 million, SBA has now imposed a \$150,000 limit without publicly announcing the change, said people familiar with the situation who were not authorized to speak publicly.

SBA public affairs employees declined to comment on the new loan limit and James Rivera, who runs the program as associate administrator at the Office of Disaster Assistance, did not respond to a request for an interview.

To read the full story go to:

<https://www.naw.org/wp-content/uploads/2020/05/SBA-Slashes.pdf>

### 3. Latest Congressional Action on the Next Coronavirus Relief Package “CARES 2”

House Democrats are preparing to unveil a sweeping package of their priorities by week's end. Senate Republicans have staked out liability protections for businesses as their “red line.” Meanwhile, President Donald Trump's demand for a payroll tax cut is failing to gain traction on the Hill from lawmakers.

According to a *Politico* story, here are 10 proposals to watch as talks on another round of relief get serious:

**Trump's payroll tax push:** The president is insisting that Congress provide a payroll tax cut or suspension, allowing workers to take home more of their paycheck. Though Congress has already approved a smaller cut allowing businesses to defer paying their share of the tax, Senate Republicans haven't embraced Trump's demand. Some worry it could harm the safety net, since the tax funds Social Security, and that it would do nothing for the tens of millions of unemployed.

**A boost for state and local budgets:** Governors say they need at least \$500 billion to weather the pandemic, with state and local officials pleading for extra flexibility to plug up devastating budget shortfalls. House Speaker Nancy Pelosi has floated as much as \$1 trillion for states and local governments. But many Republicans aren't interested in handing out hundreds of billions of dollars in “bailouts” to states with existing budget problems.

**"Red line" liability protections:** It's the one must-have for Senate Majority Leader Mitch McConnell — another massive infusion of coronavirus aid must include protections for businesses so they're not slapped with a wave of lawsuits when states re-open their economies. But Pelosi and Democrats say that any proposal to provide businesses with blanket immunity won't fly in the lower chamber.

**A lifeline for renters:** The CARES Act allows struggling homeowners to temporarily suspend their mortgage payments. But the measure did little for vulnerable renters, often low-income or minority individuals, who are scraping to make monthly payments during the pandemic. House Democrats and housing organizations are now calling for at least \$100 billion in rental aid for the next package.

**Small business rescue overhaul:** The \$670 billion Paycheck Protection Program has been plagued with accessibility issues, structural problems and controversy over millions of dollars flowing to Wall Street-backed firms. Lawmakers are now weighing the need for more funding, in addition to changes that would address complaints from employers. That includes possibly lengthening the amount of time that small businesses must spend the money, allowing them to use less aid on payroll and more on expenses like rent and expanding the relief to larger companies.

**Expanding unemployment:** Federally enhanced jobless benefits that provide an extra \$600 per week will expire at the end of July without congressional action. The federal benefits, combined with state benefits, have allowed many workers to make more money on unemployment than they did at their job. Democrats want to extend that lifeline as the nation's unemployment rate continues to climb. But Republicans are wary of extending what they see as an incentive for some workers to keep collecting unemployment at home.

**Hazard pay for health workers:** Senate Democrats proposed a "Heroes Fund" last month that could provide \$13 an hour for health care workers risking their lives on the job, up to a total of \$25,000 per person, along with \$15,000 in incentives for people who join the medical workforce during the pandemic. Trump hasn't exactly written off the idea. "If anybody's entitled to it, they are," he said during a March 30 interview on Fox News. But Republicans say they're increasingly concerned about ballooning federal deficits.

**Another bump for food aid:** During negotiations over last month's \$484 billion pandemic aid package, H.R. 266 (116), Democrats failed to secure a 15 percent

increase to existing food stamp benefits. More funding for food aid will likely remain a major part of negotiations as the demand at food banks across the country soars.

**Education cash for states:** Teachers unions and other advocacy groups are warning that, without hundreds of billions of dollars for schools, colleges and universities, states could be facing mass teacher layoffs. The education community plans to keep clamoring for relief and House Democrats are expected to make it a priority.

**A savior for struggling oil companies:** Some oil companies are facing bankruptcy as crude prices tumble. While the Trump administration has been mulling possible fixes, it's unclear whether Congress will ultimately have to intervene. Democrats aren't keen on providing any handouts, however, introducing legislation this week that would prohibit fossil fuel companies from participating in relief packages and potentially nixing a number of the Trump administration's possible solutions.

#### 4. Latest on Re-Opening the Economy

With state and local governments gearing back up to re-open the economy, many employers are seeking answers to the challenging issues they will face as they resume their business operations amidst COVID-19.

*State and Local Tax Issues:*

Grant Thornton has prepared a detailed analysis of state and local tax issues in the current economic crisis. While NAW does not lobby state or local governments, we thought the Grant Thornton analysis – State and Local Tax Alert (Initial State Income Tax Responses to the CARES Act) – would be of interest to you.

You can access their report go to:

<https://www.naw.org/wp-content/uploads/2020/05/GT-Tax-Alert.pdf>

*Stateside Associates* publishes a daily report about State and Local Government responses to the evolving situation. Some of the new developments in today's report include:

- **Connecticut** Governor Ned Lamont (D) has issued an order closing public schools for the remainder of school year.

- **Idaho** Governor Brad little (R) has announced \$300 million in cash grants will be made available to Idaho small businesses impacted by COVID-19.
- **New York** Governor Andrew Cuomo (D) has allowed out-of-state healthcare professionals to practice in the state for an additional 30-day period.

The *Nixon Peabody Law Firm* published its latest update on the evolving COVID-19 pandemic.

- **Illinois's** coronavirus (COVID-19) stay-at-home order upheld by federal judge as other lawsuits proceed in state court

To read the full article go to:

[https://www.nixonpeabody.com/en/ideas/articles/2020/05/07/illinois-coronavirus-covid-19-stay-at-home-order-upheld-by-federal-judge?utm\\_medium=alert&utm\\_source=interaction&utm\\_campaign=commercial-litigation](https://www.nixonpeabody.com/en/ideas/articles/2020/05/07/illinois-coronavirus-covid-19-stay-at-home-order-upheld-by-federal-judge?utm_medium=alert&utm_source=interaction&utm_campaign=commercial-litigation)

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by MultiState Associates.

To view their spreadsheet, go to:

[https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57\\_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM\\_6H7-S308qdKmJfpVstYWF300nyujvZPFsy/pubhtml?urp=gmail\\_link](https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM_6H7-S308qdKmJfpVstYWF300nyujvZPFsy/pubhtml?urp=gmail_link)

### **May 28 NAW Webinar on Economic Outlook:**

We are partnering with NAW senior economic advisor Alan Beaulieu to produce a second critical economic forecast webinar. This webinar, "Distribution Post COVID-19 Outlook," will run Thursday, May 28, from 3:00 to 4:30 PM EDT. Seats are limited, so if you are interested, please purchase your seat today at:

[www.naw.org/distribution-post-covid-19](http://www.naw.org/distribution-post-covid-19)

[Click here](#) for links to Critical Updates sent previously.

Many thanks—

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