

TO: NAW Direct Members

FR: NAW Government Relations Team

DATE: December 11, 2020

1. Latest on Paycheck Protection Program

Extension and possible expansion of the PPP will almost certainly be included if a COVID relief package gets through Congress this month. Moreover, even if a larger COVID package is not agreed to, there is still a chance that a PPP bill could pass.

One of the key issues to be decided on the PPP is whether Congress will pass legislation to reverse the IRS ruling that PPP borrowers cannot deduct otherwise-tax-deductible expenses if paid with a forgiven loan. There is broad and bi-partisan support in both the House and Senate for fixing this IRS-created problem, but Treasury Secretary Mnuchin is adamantly supporting the IRS position and opposed to Congress acting to reverse the agency decision. NAW and our association colleagues have been aggressively working to persuade Congress to act to enforce Congressional intent despite the Secretary's opposition.

We have helped organize a letter to Congress that almost 700 trade and business groups have signed – and that many signatures make clear the intensity of the business community commitment on this issue. You can read our letter [HERE](#).

Also, NAW sent out a TAKE ACTION issue alert to our members yesterday urging all businesses concerned about this issue to contact their Representative and Senators asking them to act on legislation before the end of this month. If you did not receive our email yesterday, you can easily compose and send a message via the NAW website:

Please take just a moment now to [click here](#) and contact your legislators urging reversal of this IRS ruling.

In an op-ed yesterday in the *Houston Chronicle*, Senator John Cornyn (TX) said it's time for Congress to pass the Small Business Expense Protection Act to safeguard small businesses' tax deductions during this unprecedented pandemic. The Small Business Expense Protection Act will clarify Congress' intent and ensure businesses are still able to deduct these business expenses as usual. The bill has three dozen bipartisan

cosponsors, and this fix won't cost one more dollar of federal money than expected because this was Congress' intent all along. To read the full op-ed, click [HERE](#).

2. Latest on the Next Congressional Pandemic Relief Package

Congressional leaders are barely talking, and renegade centrists are trying to cut a deal that Republicans don't like. It's the latest evidence Washington is broken: at the peak of the worst public health crisis in a century, the White House and Congress are struggling to deliver another round of relief. And time in the lame duck is quickly running out.

This week, a bipartisan coalition released an outline of its COVID-19 relief proposal, but the path forward on a deal remains unclear. Senate Majority Leader Mitch McConnell and Minority Leader Chuck Schumer are still at odds over establishing a liability shield for businesses and providing state and local funding.

The outline includes a \$300-per-week supplemental unemployment benefit for four months and funds a second round of loans for the Paycheck Protection Program for businesses with 300 or fewer employees. Many employers – including many NAW members – report that the bonus payment has made it difficult for them to hire or re-hire workers.

Lawmakers from both parties have said that any COVID-19 relief deal would be attached to a government-spending bill. Current stopgap funding for federal agencies runs out at midnight tonight. Yesterday, the House voted on a seven-day continuing resolution to avert a shutdown. However, there is now a roadblock in the Senate and they have not yet passed that funding extension bill.

Negotiations on a COVID-19 relief package and a bill to fund the government past December 18th will continue throughout the weekend and into next week.

3. Latest on Liability Protections for Employers

This week, Senate Leader Mitch McConnell agreed to drop liability protections for businesses as long as Democrats agreed to also exclude state and local aid. Leader McConnell has long called a liability shield his "red line," while Democrats have rejected his legislation that hasn't included state and local assistance. Leader McConnell suggested those fights can continue next year, given the likely need for another relief

package. Democratic leaders quickly rejected dropping aid to states and localities. NAW continues to fight for liability protections for employers.

A recent report in the *Washington Post* claims that lawmakers have more information now than they did in the spring about the potential for virus-related lawsuits. And, according to the article, data shows that the potential “flood” of litigation has not come.

An online complaint tracker from the law firm *Hunton Andrews Kurth* shows that out of an overall pool of about 6,500 lawsuits filed across the country so far, only 116 have been filed by employees over issues such as lack of personal protective equipment, exposure or infections at work, and death. To read the full story in the *Washington Post*, click [HERE](#).

Additionally, with the vaccine rollout weeks away, many lawmakers are beginning to question the need for additional business liability protections at all.

NAW would appreciate your feedback on the employer liability protection issue. Please let us know your concerns and if you have or expect to experience issues with liability protections with your business related to COVID-19. Send your comments to badami@naw.org

4. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

[Register for NAW 2021 Digital Summit, January 27 & 28](#)

NAW's first Digital Summit will be an event like none other hosted in the history of NAW. As we turn the page on 2020 and enter 2021, our event will focus on "Leading in a Time of Transition." This highly interactive virtual event will capture your attention from start to finish. We're including some surprise content and speakers you'll only experience if you attend our event. All of these are reasons for you to bring more team members to this event. Register today!

[Free NAW Webinar December 15: Value-Added Services as a Survival Strategy: Real Value Isn't Free](#)

Many distributors have historically given away services. Now that assortment and availability have been commoditized, distributors are finding that a strong service menu can differentiate them. However, “free” services are usually poorly developed and managed — not to mention, they include costs without clear revenues. [Join NAW and Ian Heller](#) of Distribution Strategy Group for a free webinar on Tuesday, December 15, at 2:00 p.m. ET, to hear Ian’s take on the alternative.

From *Little Law Firm*:

[Bouncing Back \(and Forth\): Statewide Reopening and Mitigation Steps](#)

As the pandemic unfolds, government officials are reevaluating their health and safety protocols and adjusting workplace guidance. This post provides links to key reopening orders and/or mitigation measures issued in recent weeks, at the statewide level. To read more, click [HERE](#).

From *Covington Law Firm*:

**Technology Company Issues in the New Congress and Administration
Monday, December 14, 2020 at 3:00 p.m. ET**

Join *Covington* for an off-the-record briefing on the likely challenges and opportunities tech companies will face in the new Congress and Administration. The briefing is designed to equip legal and business leaders with crucial information on the key issues impacting the technology industry following the most divisive election in U.S. history, combined with the unfolding repercussions of the COVID-19 pandemic. Sharing unique insights and perspectives gained representing some of the world’s most successful technology companies, as well as from their leadership positions in previous administrations, we will focus on:

- The New Administration and Congress
- Antitrust
- Telecommunications
- Privacy
- Cross-border Investment & National Security
- China and other Global Trading Partners relevant to the Technology Industry.

To register, click [HERE](#).

Webinar from *Little Law Firm*:

**2020 Virtual Benefits Symposium Addressing Issues in the New Normal
December 17, 2020 at 1:00 p.m. ET**

This complimentary series of engaging and informative courses will address the most significant issues on which employers should focus with respect to the maintenance and governance of employee benefit plans and how COVID-19 affects workplace benefits. It will discuss how to successfully navigate through these potentially dangerous waters, providing drafting guidance and current best practices. The hands-on techniques that are discussed will be of value to all that have a role in negotiating with employees and drafting employee agreements.

To register, click [HERE](#).

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation. To read their latest report, click [HERE](#).

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, click [HERE](#).

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

Many thanks—

*Jade West, Chief Government Relations Officer
Blake Adami, Vice President-Government Relations
Seth Waugh, Associate Vice President-Government Relations
National Association of Wholesaler-Distributors*

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TO: NAW Direct Members

FROM: NAW Government Relations Team

DATE: December 3, 2020

5. Latest on Paycheck Protection Program Deductibility

The business community continues to battle the IRS and the Treasury Secretary over the IRS ruling that otherwise-tax deductible expenses paid for with a forgiven PPP loan would no longer be deductible. It was the clear intent of Congress that PPP loans would not be included as taxable income, and the IRS ruling – firmly supported by Secretary Mnuchin – conflicts with that clear Congressional intent.

NAW helped organize and obtain signatures on a letter to Congress urging them to pass legislation to reverse the IRS ruling, enforce Congressional intent, and prevent the tax increase that PPP borrowers will face next year if the issue is not resolved.

More than 550 organizations signed this letter, clearly demonstrating how important this issue is to the business community. You can read the letter [HERE](#).

6. Latest on the Next Congressional Pandemic Relief Package

Negotiations between Congressional leaders are making progress on talks to fund the government and create a compromise coronavirus stimulus bill, though they will likely need a short-term continuing resolution to fund the government past the December 11th spending deadline.

This week, Senate Majority Leader McConnell said that the Senate will likely try to pass an omnibus funding bill and a coronavirus stimulus in one major package setting the stage for a series of rapid negotiations in the lame-duck session. NAW continues to work with our trade association allies for passage of a new relief measure that includes liability protection, protects the business tax credits included in the CARES bill, and restarts and/or expands the PPP.

Leader McConnell is circulating a revised coronavirus proposal among Senate Republicans which he says has the support of President Trump. A summary of Leader McConnell's plan has several similarities to a \$519 billion package that Republicans offered earlier this fall that Democrats dismissed as "skinny." Among the biggest elements of the new package is \$332.7 billion for the Paycheck Protection Program. The proposed bill again insists on liability protection for employers from pandemic-related lawsuits if they follow federal health guidelines.

House Speaker Pelosi and Senate Minority Leader Schumer announced yesterday they support a \$908 billion bipartisan stimulus proposal as the starting point for a new round of talks with Republicans. President-elect Joe Biden also said he could support the measure, calling it a “down payment,” though the country will probably need more aid in the future.

Also, this week, Federal Reserve Chairman Jerome Powell and Treasury Secretary Steven Mnuchin both backed more fiscal stimulus to bridge the economy through the next few months of the pandemic as the promise of vaccines looms large. “Some fiscal support now would really help move the economy along” and guard against downside risks, particularly to small businesses,” Chairman Powell testified to the Senate Banking Committee during a joint appearance with Secretary Mnuchin. “The risk of overdoing it is less than the risk of under doing it.”

7. Latest on the Paycheck Protection Program

Yesterday, the Trump administration published a trove of data identifying millions of businesses that received emergency loans during the Covid-19 outbreak, giving the public the first comprehensive look into who tapped into the massive aid programs. The business community objected to the release of detailed loan information, and the SBA originally declined to publicly release it.

The SBA published the names of employers that received money under the Paycheck Protection Program and Economic Injury Disaster Loan program in compliance with a federal court order requiring it to do so. The disclosure followed litigation between the Trump administration and news organizations, including the New York Times and Washington Post, that sought the information under the Freedom of Information Act.

To read more from *Politico*, click [HERE](#).

8. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

As *Politico* reports, California's emergency workplace safety rules are now in effect, requiring an array of protocols to prevent the spread of Covid-19 on the job amid an explosion of cases statewide. The regulation mandates prevention plans that ensure proper distancing, mask wearing, ventilation and sanitation. It also lays out extensive testing, notification and quarantine requirements.

Employers must quickly notify those exposed to Covid-19 and provide testing during working hours at no cost, investigate how the spread may have occurred, and maintain the pay and benefits of workers required to quarantine at home. To read the full story, click [HERE](#).

Webinar from *Littler Law Firm*:

**Home Suite Home: The Remote Workforce and Business Expense Reimbursement
Tuesday, December 8th at 3:00pm (ET)**

COVID-19 has shifted the workforce out of office suites and into home offices in a rapid and unprecedented manner. As the pandemic continues and employers reassess the role of the office in their long-term strategy, it is important for employers to understand their obligations and responsibilities as it relates to the reimbursement of business expenses incurred by employees during the course of their work. This webinar will focus on the legal and factual issues facing employers when implementing policies and making determinations about business expense reimbursements.

To register, click [HERE](#).

From *Covington Law Firm*:

Opening the Doors: Return-to-Workplace Considerations During COVID-19

Whether a company is an essential business that has operated throughout the pandemic or is expecting to re-open in the coming months, a number of challenges must be addressed in order to provide a safe environment in which employees can work, while at the same time mitigating risk and restoring operations. The latest in our eight-part series examines whether employers can and should require employees to take the COVID-19 vaccine in connection with returning to the workplace.

To read the full article, click [HERE](#).

Webinar from *McGuireWoods*:

**2021 California Employment Law Update
Wednesday, December 16th 1:00pm – 2:00pm (ET)**

This year brought a number of new laws, including some related to COVID-19, that will impact California employers in 2021. In addition to the new statewide legislation, the legal landscape for employers may further change as a result of various United States and California Supreme Court cases which are expected to be decided in the coming months.

To register, click [HERE](#).

**Webinar from *Littler Law Firm*:
Navigating Difficult FMLA and ADA Issues in the Middle of a Pandemic
Wednesday, December 9th at 1:00pm ET**

The COVID-19 pandemic has left an indelible impact on the workplace, causing employers to deal with a wave of medical leaves and a shift to virtual workplace. As a result, employers face a host of compliance issues in navigating leave and accommodation issues.

To register, click [HERE](#).

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