

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 86 – August 7 at 2:00 PM

1. Latest on Paycheck Protection Program

A provision in the Senate language to extend and expand the PPP may be of interest to you, or more specifically, to your customers. The provision would make covered supplier costs permissible and forgivable expenses in PPP loans. Unfortunately, covered “supplier” expense is defined as “an expenditure made by an entity to a supplier of goods pursuant to a contract in effect before February 15, 2020 for the supply of goods that are essential to the operations of the entity at the time at which the expenditure is made.” (In these circumstances, of course, you are the suppliers.) Requiring a 6-month-old contract for the purchase of goods is obviously unrealistic and would most likely exclude many of your customers from using PPP funds for this purpose.

NAW is working with the International Foodservice Distributors Association to try to get this language changed. We are recommending either eliminating the date altogether or using date of enactment combined with a term such as “established business relationship” in place of “contract” to provide a broader view of the eligible supplier expenses. We have invited all NAW member associations to sign onto a letter to Senator Rubio and Senate leaders explaining the flaws in the language as drafted – you can read our letter [HERE](#).

If you believe your customers who are PPP borrowers would benefit from having supplier costs included as forgivable expenses, please bring this issue to their attention. Calls from business leaders to Senator Rubio’s office urging that this legislative language be changed so it reflects realistic business practices would be very helpful. You/they can call Senator Rubio’s office at 202-224-3041, or at the Small Business Committee at 202-224-5175. Or an email message can be sent through his website at: <https://www.rubio.senate.gov/public/index.cfm/contact>

2. Latest on Main Street Lending Program

Today, the Congressional Coronavirus Oversight Commission (COC) held a hearing on the Fed's Main Street Lending Program. The key witness was Dr. Eric Rosengren, President and CEO of the Boston Fed which oversees the MSLP. The COC currently has no chair and consists of 2 Democrat and 2 Republican appointees. The two Democrat Commissioners, Congresswoman Donna Shalala and Bharat Ramamurti (a senior adviser to Senator Elizabeth Warren of Massachusetts), were aggressively critical of the MSLP, with Mr. Ramamurti saying that through the MSLP the Fed is trying to solve a problem that does not exist and incapable of solving the problem that does exist. Unfortunately for Dr. Rosenberg, the two GOP appointees, Senator Pat Toomey and Representative French Hill, were also very critical of the MSLP, particularly questioning Dr. Rosengren on the glacially slow roll-out of the program and noting that the appetite for loans has virtually disappeared.

Dr. Rosengren effectively confirmed the criticisms, noting that only \$109 million in loans have been completed – to a total of 18 borrowers. Only \$530 million more is in the pipeline, still an extremely small percentage of the \$600 BILLION in available funds.

Of note: Senator Toomey observed that in the months that it has taken the Fed to get the program operational, business realities have changed, and the program design may no longer meet the needs of potential borrowers.

It remains to be seen if there is sufficient business interest in MSLP loans to make the program a success, or if the Fed and Treasury can re-tool the program to make it address current business needs. On the latter option, yesterday four GOP Senators (Kelly Loeffler, John Cornyn, Mike Braun and Thom Tillis) sent a letter to Fed Chairman Powell and Treasury Secretary Mnuchin noting the failure of the MSLP and urging that changes be made to save the program. You can read their letter and recommendations [HERE](#).

3. Latest on the HEALS Act (Health; Economic Assistance; Liability Protection; and Schools Act)

With no deal on a COVID-19 relief package in sight, most Senators headed home yesterday, leaving negotiations up to the White House and party leaders. The Senate is

expected to technically stay in session next week but will not hold any votes unless there is a breakthrough in coronavirus negotiations.

Speaker Nancy Pelosi and Senate Minority Leader Chuck Schumer met again with White House Chief of Staff Mark Meadows and Treasury Secretary Steven Mnuchin last night, but so far, the talks have not made much progress. According to the *Hill* today, Treasury Secretary Mnuchin confirmed that he will be meeting both Leaders and Mark Meadows in the Capitol this afternoon. To read the *Hill* story, click [HERE](#).

Secretary Mnuchin and Mark Meadows have both publicly stated that they believe if a deal isn't reached by today, then an agreement may not be possible. The final discussions come as President Trump is preparing to issue a series of executive orders to unilaterally try to address the economic crisis caused by the pandemic if an agreement isn't reached.

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:

From ***Little Law Firm***:

[**Facing Your Face Mask Duties – A List of Statewide Orders, as of August 7, 2020**](#)

As businesses reopen, face coverings are likely to remain popular as a preventative measure. This post identifies the jurisdictions where face coverings are recommended or required.

To read more, 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](#).

5. Issues Unrelated to COVID-19

Action Requested: Submit These Comments to IRS on 1095-C Form for 2020

Recently, the IRS released the draft 1095-C form for 2020. Under the Affordable Care Act, employers must print and mail 1095-C forms to individual employees enrolled in their coverage. The compliance costs associated with the federal mandate that these forms are printed and mailed, instead of sent electronically like other employee tax forms, are large and burdensome for employers of all sizes.

The IRS significantly modified the 1095-C form by adding eight new codes (1L-1S) and a line 17 (zip code) to account for the information needed to assess coverage offers related to individual coverage health reimbursement arrangements (ICHRAs). This will:

- Double the paper 1095-C forms printed and mailed to employees, **doubling the printing costs for employers**;
- Require employers & third-party administrators to reprogram reporting systems; and
- **Bring an unwelcome increase in compliance costs to employers in these economic-uncertain times.**

ACTION NEEDED: Businesses and trade associations need to voice concerns about the revised 1095-C form directly to the IRS by submitting a short comment statement via the website linked [HERE](#) and below. The comment field on the website is limited in the number of characters allowed to be submitted. Provided below is a sample comment statement for you to individualize with your organization's name and contact information that fits into the comment field.

IRS Website to submit comment statement:

<https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications>

Fields:

1. Your email address
2. Form Number: **Form 1095-C for 2020**
3. Comment (below, to be individualized)

SAMPLE COMMENT STATEMENT:

I write on behalf of (**BUSINESS/COMPANY/TRADE ASSOCIATION/ORGANIZATION, add short description of your entity**), to express concerns about the draft Form 1095-C for coverage year 2020 reporting. As currently drafted, Form 1095-C doubles the printed pages for these statements to employees and increases costs for applicable large employers (ALEs).

Due to the addition of Line 17 in Part II related to individual coverage Health Reimbursement Arrangements (IHRAs) and the doubling of the number of rows in Part III to list Covered Individuals, the draft Form 1095-C will now require two printed pages rather than one page. Unless the statement is revised and reformatted, the extra page will double ALEs' compliance costs and paper use, which is very unwelcome in these current economic-uncertain times.

We respectfully request the following revisions and reformatting to Form 1095-C:

1. Clarify purpose of the zip code in Part II, Line 17. The zip code line is irrelevant for ALEs that offer traditional group coverage or elect not to offer coverage. Should an ALE choose to offer an ICHRA, it could be based on the location of the ALE's choice and not the employee's physical home address which would cause confusion to the employee.
2. Reduce the number of Covered Individuals rows in Part III from the drafted 13 rows to 5 rows. Rarely do covered employees have that many dependents enrolled in their plan. Very few ALEs have ever needed to use more than 5 rows for one employee. If there are instances of a large family being enrolled in a plan, an ALE can opt to add an additional page. The drafted 13 row form should not be the standard applied to all ALEs.
3. Release draft forms and instructions together. Without the instructions, it is hard for employers, vendors, and insurance brokers to clearly decipher and interpret changes made on draft forms and prepare for reporting compliance.

The IRS should strive to reduce employers' compliance burdens and costs and not add to them, as noted in E.O. 13924, Regulatory Relief to Support Economic Recovery. Ideally, action should be taken to eliminate Form 1095-C entirely but short of that, ALEs should be able to electronically transmit Form 1095-C to employees as is the case currently for other tax forms and documents.

Thank you for your attention to our concerns. We welcome the opportunity to further discuss revisions to the draft Form 1095-C and instructions for the Form 1095-C and 1094-C. (INSERT CONTACT INFORMATION - NAME, EMAIL, PHONE)

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

Many thanks—

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