

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 99 – October 2 at 1:00 PM

1. Latest on the Next Congressional Pandemic Relief Package

COVID-19 relief negotiations remain stalled after the House yesterday passed a Democrat-only \$2.2 trillion package that did nothing to bridge the gap with Republicans. The vote, which garnered no GOP support, followed the most concerted talks between the top negotiators since early August. Speaker Nancy Pelosi told reporters last night she would review documents that Treasury Secretary Steven Mnuchin sent her to determine where to go next. The Senate will not consider this messaging bill.

The talks failed to resolve a difference of hundreds of billions of dollars between the two sides. Sharp disagreements also remain on components of coronavirus relief, with the Trump Administration rejecting the scale of aid Democrats want for state and local authorities, and Speaker Pelosi demanding the end of tax breaks she says are devoted to the wealthy.

The House is scheduled to be out until after the election after lawmakers depart today, but they could return to vote on a measure if an agreement is struck. The Senate is scheduled to remain in session next week, and many Senators will likely remain in Washington right up until the election while the chamber processes Amy Barrett's nomination for the high court. After testing positive for COVID-19, President Trump spoke to both Senate Leader McConnell and Senate Judiciary Chairman Graham this morning to ensure that confirmation hearings for Supreme Court nominee Barrett are on track.

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, restarts and/or expands PPP, and addresses the problems with PPP described below.

2. Latest on the Paycheck Protection Program Loan Forgiveness

With the collapse – again – of negotiations between Secretary Mnuchin and Speaker Pelosi, the outlook for an expansion or simple “re-start” of PPP is not good. In the interim, focus remains on PPP loan forgiveness and the tax deductibility of expenses paid for with proceeds from a forgiven loan.

The SBA and Treasury have been on the receiving end of serious criticism for their glacial pace on processing loan forgiveness, and for the confusing process itself. As of earlier this week, the SBA had received almost 100,000 forgiveness applications, but approved none. After a contentious House Small Business Committee hearing on this issue last week, the agencies promised to improve the process and begin approving loan forgiveness applications. Please note that while promising to speed up the loan forgiveness process, Secretary Mnuchin also said that they would continue to monitor PPP loans for fraud, focusing on loans over \$2 million. There is Congressional interest in making forgiveness for loans under \$150,000 automatic, but legislation to achieve that objective is also stalled with the failed COVID-4 negotiations. You can read a Wall Street Journal story on the loan forgiveness problems [HERE](#).

On a related issue, the controversy remains about the ability of PPP borrowers to deduct business expenses paid for with a forgiven PPP loan. Congressional intent on this matter is clear: PPP loan proceeds are not taxable. But the IRS ruling that otherwise tax-deductible business expenses will not be deductible if paid with PPP loan proceeds effectively makes that portion of a PPP loan taxable. The IRS and Treasury are determined to enforce the IRS ruling, and Congressional efforts to enforce the legislative intent and reverse the IRS ruling are caught up in stalled negotiations on COVID-4 legislation. NAW and the Partnership for Main Street Employers (PMSE) are initiating a renewed lobbying campaign to fix this problem. The PMSE Executive Director had an op-ed on this issue published this week that you can read [HERE](#).

3. Latest on Main Street Lending Program

The MSLP continues to be an ineffective program and a disappointment to the mid-sized businesses it was intended to help. The Fed released a survey earlier this week that made clear the program’s failure: Only about \$2 billion of the authorized \$600 billion has been approved in loans, half the banks in the survey reported that they had rejected loan applications from companies that were solvent before the pandemic but seriously damaged by it, and three-fourths said they had either made no loans or not even registered for the program. Unless Treasury and the Fed decide to accept more risk from MSLP loans and/or make the loan terms more favorable for the borrowers, the program is unlikely to ever serve the purpose for which it was intended.

Of potential interest: the failure of the program has increased calls for either improving the loan terms or using the hundreds of billions of dollars in some other programs.

You can read a *Reuters* report on the Fed survey and the MSLP [HERE](#).

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 the *Department of Labor*:

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has published additional [frequently asked questions and answers](#) (FAQs) regarding the need to report employees' in-patient hospitalizations and fatalities resulting from work-related cases of the coronavirus.

OSHA's new FAQs provide information to help employers apply the agency's existing injury and illness recording and reporting requirements to the coronavirus. In particular, the FAQs provide guidance on how to calculate reporting deadlines for in-patient hospitalizations and fatalities and clarify the meaning of the term "incident" as it relates to work-related coronavirus in-patient hospitalizations and fatalities. To read the latest FAQs, click [HERE](#).

From *Littler Law Firm*:

California Imposes New Compliance Obligations on Employers

The COVID-19 pandemic resulted in the closure of the California Legislature for long stretches of time this year. The work of the body continued, however, and at the end of the session it passed the usual flurry of labor and employment bills and sent them to Governor Newsom. Now in his second year in office, the Governor has had to deal with one crisis after another, including health and safety issues relating to the pandemic, the impact of COVID-19 on the state's economy and tax revenues, and historic wildfire activity. Nevertheless, the Governor did sign into law approximately 20 new bills that will impact those businesses with operations in the Golden State. To read more, click [HERE](#).

From *Littler Law Firm*:

[As Election Approaches, New York Employers Need to Be Aware of Paid Voting Leave and Voting Rights Posting Requirements](#)

With the November 3, 2020, general election one month away, New York employers must remember that New York's Election Law grants employees working in New York paid time off to vote and imposes specific, time-sensitive posting requirements. 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](#).

[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*

The above information and links to other information has been prepared by NAW for the general information of NAW members. It is not intended to, and does not, provide tax, legal or professional advice concerning any specific matter. You should not act on the information without first obtaining professional advice and counsel.