

May 19, 2020

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Dear Senators McConnell and Schumer,

In this time of uncertainty and economic turmoil, the Paycheck Protection Program (PPP) has been a lifeline to American small businesses trying to do right by their workers and keep their dreams and companies afloat. As a coalition of associations representing many of these small businesses, we have been dismayed by post-hoc changes to the loan forgiveness and tax deductibility rules of the PPP. We therefore welcome and support efforts like S. 3612 – the Small Business Expense Protection Act of 2020, to revert these changes and enhance the effectiveness of the PPP.

Guidance released by the IRS which interprets PPP funds as taxable income clearly goes against the intention of Congress in drafting those portions of the CARES Act. The chairmen of the Senate Finance and House Ways and Means committees view this IRS ruling as defying congressional intent. By disallowing normal business deductions, the IRS is, in effect, taxing forgiven PPP dollars and underhandedly reducing the actual amount of aid extended to desperate American workers and small businesses.

Additionally, the SBA's arbitrary assessment that 75% of forgivable loan expenses must be spent on payroll is without precedent in the legislation. This "75-25" rule makes PPP loans inappropriate for many types of businesses. Main Street small businesses, small manufacturers, the self-employed, businesses in high-cost areas of the country where rents are higher than average, and firms whose largest expenses are rent, utilities, or other essential costs have all been locked out of participation in the PPP loan forgiveness program. There was no ratio placed on allowable forgivable expenses by Congress in the legislation, and the 75-25 rule imposed by SBA must be lifted.

Our member businesses, and thousands of small businesses like them, are relying on the PPP to keep their companies running and make their payroll on time. Employees of these businesses are also relying on these funds, often for their literal survival. Many of our members applied for and received PPP funding with the rational expectation that when the government promised the loans would be forgiven, the government meant it. To allow the IRS and SBA to act against this social contract with the public is to betray the promise made to millions of Americans in a moment of desperate need.

In addition to the need to correct the IRS and SBA's ill-advised guidance on this issue, Congress needs to make additional changes and fixes to the PPP. While the program as passed in the CARES Act was a lifeline, it was a lifeline that reflected an incomplete understanding of COVID-19's economic effects. When the CARES Act passed, many thought that the COVID-19 pandemic would be over within a matter of weeks. However, due to continued state lockdowns and diminished economic demand, it seems that the impact of COVID-19 will be felt long after the physical danger from the virus has passed. A serious, apolitical, and bipartisan effort to replenish the PPP's funding and repair existing issues within the program must be made. Eight weeks of support for American businesses will simply not be enough to ensure the survival of the American economy after months of government-mandated inactivity.

A non-exhaustive list of PPP fixes that should be made to bolster and improve the program include:

- Allow businesses to deduct as normal, expenses paid with proceeds of forgivable PPP loans.
- Lift the SBA's 75-25 rule which caps non-payroll costs associated with PPP loans at 25% of total forgivable expenses.
- Provide an automatic extension of additional PPP funds at the same weekly level as current PPP loans through December 31, 2020.
- Extend the loan forgiveness period for "covered expenses" from 8 weeks through December 31, 2020.
- Expand the list of forgivable non-payroll costs to include additional types of expenses, such as technology and software licensing costs related to the digital operations of a small business.

The people of the United States are in a place of unprecedented economic distress. Congress needs to do right by the people of this country, by business owners and by workers who are struggling through no fault of their own. More funding must be added to the PPP. The program must be extended and flaws in its implementation by government agencies must be repaired.

In addition, these issues must be fixed within a standalone piece of legislation. America's small businesses should not be held hostage in support of a larger bill, like the HEROES Act, with many unacceptable provisions, which will be tied up in negotiations, possibly for weeks or months. The PPP needs more funding and clarifying fixes today; the least Congress can do for the American people is to provide these needed changes. This is why our associations support S. 3612, and bills like it, which will help to blunt the devastating impact of the COVID-19 pandemic on America's small businesses and the families of their employees.

