BULLETIN #61/2020
MAY 8, 2020

_CORONAVIRUS UPDATE #47

RMV SHIFTS B2B SERVICE FROM SPRINGFIELD TO CHICOPEE

MASS. CORONAVIRUS DATA UPDATES

CONGRESS, TREASURY TUSSLE OVER IRS GUIDANCE ON PPP TAX DEDUCTIBILITY

SBA IG ISSUES REPORT ON PPP

NADA DEALERSHIP LIFELINE WEBINARS FOR NEXT WEEK

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[*This bulletin supplements our previous bulletins #11 and #16 through #60 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information*.]

Springfield B2B Service Moving to Chicopee Effective May 18

The Massachusetts Registry of Motor Vehicles announced today that the Springfield B2B services are being moved to Chicopee, effective Monday, May, 18. The RMV issued the following statement this afternoon:

"Due to the evolving situation with COVID-19 (Coronavirus) and in an effort to continue protecting RMV staff, customers, and business partners, the RMV is moving B2B service for Western Massachusetts to the Chicopee RMV Service Center, effective Monday, May 18.

"In following 'social-distancing' practices, the Chicopee RMV will exclusively perform drop-off B2B transactions/bundles only via the facility's existing drive-thru window.

"B2B services will cease at the Springfield RMV to allow for additional appointment-only services for the general public. New IRP transactions will still be conducted at the Springfield Service Center. B2B Services will also continue to be provided on a drop-off only basis in Milford and Wilmington. These facilities will not serve or allow entry to the general public, and you will not be allowed to 'wait' in any of these locations for pick-up.

"The RMV continues to serve members of the general public on an appointment-only

"The RMV continues to serve members of the general public on an appointment-only basis at additional locations, consolidated into the larger Service Centers, and has redeployed teams from nearby, closed offices to ensure staffing resources are available to assist customers and business partners like you.

"Please note: Any B2B service request appearing at the Service Centers that serve the general public will be redirected to Milford, Wilmington, and Chicopee RMVs.

"In keeping with recommendations from the Massachusetts Department of Public Health, the RMV has also adopted enhanced cleaning practices for its facilities, purchased additional contactless hand sanitizer dispensing stations, issued anti-viral disinfectant wipes and individual-size hand sanitizers to certain employees, and expanded areas to be disinfected.

"Thank you for your cooperation and partnership."

Mass. Coronavirus Data Update

[Courtesy of *State House News Service*]

MAY 8, 2020.....Public health officials reported 150 more COVID-19 deaths and confirmed 1,612 new cases of the disease on Friday, as the coronavirus continues to devastate Massachusetts. Since Feb. 1, 75,333 people have become infected, and since March 20, 4,702 people have lost their lives to the virus.

Though the number of deaths announced Friday was greater than on Thursday, a number of other metrics considered key to resuming economic and social activity showed positive signs in Friday's DPH report.

There were 3,349 people hospitalized due to COVID-19 in Massachusetts as of Friday, a decline of 87 patients from Thursday. The number of patients in an intensive care unit also dropped Friday, from 852 on Thursday to 826, the DPH said. The number of COVID-19 patients hospitalized in Massachusetts has declined in seven of the last 10 days.

The economic toll of the pandemic became even more clear Friday when the national unemployment rate jumped to 14.7 percent, a sharp increase over the 4.4 percent rate observed in March when the downward trend started but had not reached full force.

The loss of more than 20 million American jobs in April essentially wiped out all job gains over the decade since the end of the global financial crisis.

Both data sets -- one showing some encouraging signs about COVID-19 activity in the state and the other shining a light on the hardship that mitigation efforts is causing -- are drumming up increased calls to resume economic activity in Massachusetts.

While the lieutenant governor and economic development secretary lead the administration's effort to install guardrails for a safe reopening, Senate President Karen Spilka said transportation and child care -- including summer camps -- are key pieces of the "infrastructure" that will be necessary for Massachusetts to reopen.

Gov. Charlie Baker also had summer on the mind Friday, but said that he expects it will be a "different kind of summer" and that people will come up with new ways to socialize and spend time with loved ones.

"My guess, my expectation is, however we're playing within the framework of what's possible under COVID-19, people will come up with interesting ways to spend their time and to stay in touch," Baker said Friday. "In many cases, it won't be the old familiar way they did it but, you know, people adapt, and I think sometimes we underestimate them with respect to that, but it will definitely be a different kind of summer."

Impact of Economic Impact Payments: The federal government has sent 2.5 million stimulus payments to Massachusetts residents totaling $4 billion in pandemic-related aid, the U.S. Treasury and Internal Revenue Service announced Friday. To be precise, the federal Economic Impact Payments program has so far made 2,503,206 payments worth a total of $4,008,005,049 to Bay Staters. Depending on income, many people are eligible for stimulus payments of up to $1,200 and an additional $500 for each qualifying dependent. The figures announced Friday work out to an average Massachusetts payment of about $1,600. Across the country, approximately 130 million people have received payments worth more than $200 billion in the program's first four weeks, the IRS said. "We are working hard to continue delivering these payments to Americans who need them," IRS Commissioner Chuck Rettig said. "The vast majority of payments have been delivered in record time, and millions more are on the way every week. We encourage people to visit IRS.govfor the latest information, FAQs and updates on the payments."

Daily Massachusetts COVID-19 Tracker

The state's COVID-19 Dashboard with up-to-the date data can be found here.

Back on March 2, the state unveiled a new web site designed to provide updated information for employers and others about the Coronavirus. At that time, the Commonwealth noted that, "although the risk to Massachusetts residents of the novel Coronavirus is low, the risk of influenza is currently high. Many of the things you do to help prevent colds and flu can help protect you against other respiratory viruses." (See Bulletin # 11, 3/3/2020.)

One week later on March 10, upon cutting short his vacation, Gov. Baker declared a state of emergency, joining at that time about a dozen other states with a formal emergency declaration. (See Bulletin #16, 3/11/2020.) And here we are today.

Congress, Treasury Tussle over IRS Guidance on $2.2T COVID-19 Package
By Naomi Jagoda, *The Hill*

Lawmakers and the Treasury Department are tussling over IRS guidance implementing provisions of the $2.2 trillion coronavirus relief package.

Key lawmakers on both sides of the aisle this week pressed Treasury to reconsider two pieces of tax guidance implementing portions of the law, arguing that the guidance is not in line with congressional intent. Treasury on Thursday said that it would revise one of those items.

The back-and-forth comes as Treasury is working to quickly get out guidance on various aspects of the law, known as the CARES Act, after the measure was quickly considered by Congress and signed into law by President Trump.

Three of Congress's top tax writers on Tuesday sent a letter to Treasury urging the department to revisit guidance the IRS issued last week stating that expenses associated with forgiveness of small-business loans under the Paycheck Protection Program (PPP) are not tax deductible.

"We urge you to reconsider this determination in light of congressional intent and the importance of maximizing liquidity for businesses receiving PPP loans to survive and recover from the ongoing health crisis," wrote Senate Finance Committee Chairman Chuck Grassley (R-Iowa), Finance Committee ranking member Ron Wyden (D-Ore.) and House Ways and Means Committee Chairman Richard Neal (D-Mass.).

Under the PPP, small businesses are receiving loans that are forgivable if the businesses retain their workers.

Typically, loan forgiveness is counted as taxable income and businesses can deduct ordinary and necessary business expenses, such as wages. Lawmakers included a provision in the CARES Act that states that loan forgiveness under the PPP isn't taxable, which had raised questions for tax preparers about how expenses associated with the loans, such as wages, would be treated.

The IRS said in its guidance that deductions aren't allowed for expenses if the payment of those costs results in PPP loan forgiveness. The IRS cited a section of the tax code that states that deductions aren't allowed for expenses allocated to certain types of tax-exempt income.

But Grassley, Wyden and Neal said that while the CARES Act was being written, lawmakers had expressed to Treasury that they did not intend to deny deductions for ordinary and necessary business expenses.

They said that if they had intended for the loan forgiveness to be tax-neutral, they wouldn't have included the provision that makes the forgiveness tax-exempt, and that the IRS guidance effectively renders that section meaningless. They also argued that the IRS interpretation of the tax-code section in denying the deductions was flawed.

Frederick Vaughan, an official in Treasury's legislative affairs office, said in a brief reply to Grassley, Wyden and Neal on Thursday that the department is taking their views under consideration and will follow up with their offices.

Earlier in the week, Treasury Secretary Steven Mnuchin defended the guidance in an interview on Fox Business Network.

“The money coming in the PPP is not taxable. So if the money that's coming is not taxable, you can't double dip,” Mnuchin said.

Some tax experts say the IRS correctly interpreted tax law in its guidance.

“I think Mnuchin is right,” said Steve Rosenthal, a senior fellow at the Urban-Brookings Tax Policy Center, which is led by a former Obama administration Treasury official.

Rosenthal said that he thinks it’s “pretty straightforward that reimbursed expenses are not tax deductible,” especially when the reimbursement is tax free.

Tony Nitti, a partner at the accounting firm RubinBrown, said that the IRS guidance is “the right answer according to the tax law.” The question is whether the guidance was what Congress intended, and whether the IRS is willing to make a concession in this case, he added.

While lawmakers are pushing for their concerns to be resolved administratively, they are also pursuing a legislative fix.

Grassley, Wyden, Sen. John Cornyn (R-Texas) and other senators have introduced legislation, backed by the American Institute of CPAs, that would clarify that businesses can deduct expenses paid with forgiven PPP loans. Legislation on this topic is also expected to be introduced in the House on Friday by Rep. Lizzie Fletcher (D-Texas).

“We still need to fix the issue of deducting business expenses related to the application for PPP loans,” Grassley said in a statement Thursday. “It’s fully my intention for that issue to get resolved quickly, whether administratively or legislatively, so small businesses maintain as much liquidity as possible during this difficult period.”

The guidance on PPP loans isn’t the only area where lawmakers have recently expressed concerns about IRS interpretations of the CARES Act.

One day prior to sending the letter about the PPP guidance, Grassley, Wyden and Neal sent a letter to Treasury expressing concerns with a portion of an IRS frequently asked questions on the CARES Act’s employee retention credit. Treasury on Thursday announced that they would make changes to this guidance.

Eligible businesses impacted by the coronavirus pandemic can receive a payroll tax credit of up to $5,000 per employee for wages and health-care expenses allocable to those wages.

The IRS had said in FAQs posted on its website last week that if a business furloughs workers and pays the workers’ health benefits but not wages, the company’s health-plan expenses don’t count as qualified wages eligible for the credit.

Grassley, Wyden and Neal urged Treasury to reconsider that determination, saying it goes against congressional intent and that allowing people to keep their employer-sponsored health plans even while furloughed is important in ensuring that Americans have access to affordable health care during the pandemic.

"In drafting the provision, qualified wages were explicitly expanded to incorporate certain qualified health benefits, with the intent to provide an incentive for employers to continue providing health benefits to their employees, even if the employer was otherwise unable to continue paying regular wages because of the coronavirus pandemic," the lawmakers wrote.

The U.S. Chamber of Commerce had previously sent a similar letter to Treasury about this issue, with the group's vice president of tax policy, Caroline Harris, writing that "punishing employers who have continued to provide furloughed employees health care benefits during a global pandemic is simply poor public policy."

Vaughan, the Treasury legislative affairs official, told Grassley, Wyden and Neal on Thursday that the department "will be revising the applicable guidance."

"This is good news for small businesses and workers across the country," Grassley said. "This decision will encourage employers to help employees keep their health insurance while temporarily furloughed due to the shutdown. The decision also aligns Treasury's policy with the original congressional intent behind the employee retention tax credit."

The recent letters to Treasury aren't the first time that lawmakers have taken issue with guidance on tax provisions of the CARES Act. For example, shortly after the law was enacted, the IRS released guidance saying that Social Security recipients would need to file tax returns in order to receive their coronavirus relief payments. The IRS subsequently reversed course, after concerns were raised by lawmakers.

Garrett Watson, a senior policy analyst at the right-leaning Tax Foundation, said that a trend with the conflicts is that lawmakers want the CARES Act to be carried out in a way that is taxpayer-friendly, while Treasury and the IRS have, at least initially, taken stricter interpretations of the statute.

"Congressional lawmakers intended to be more generous," while Treasury is being more cautious, Watson said.

NOTE: *Yesterday a letter went to the tax-writing committee chairs, signed by NADA and more than 150 groups, encouraging them to reverse the recent IRS Notice denying the deductibility of costs associated with PPP loan forgiveness and re-instating the intent of Congress.*

SBA Inspector General Report on PPP Program

[Information courtesy of our MSADA accounting partner, O'Connor & Drew.]

The Office of the Inspector General has released a report with findings and recommendations for the SBA surrounding the Payroll Protection Program (PPP) loans.

The IG report's summary of suggested actions for the SBA include the following:

- Issue guidance to lenders requiring the lenders to prioritize borrowers in underserved markets and revise the borrower application to include collection of optional demographic information for the principals for the remaining available lending authority and any future lending under the program.
- For loans that are already disbursed, include optional demographic information on forms used to request loan forgiveness.
- Evaluate the potential negative impact to borrowers regarding the specified percentage of loan proceeds eligible for forgiveness and update the requirements, as deemed necessary.
- Issue guidance to lenders on the deferment process for PPP loans.
- Register PPP loans by Taxpayer Identification Number.

The report found that while the guidance so far has mostly aligned with the CARES Act text, certain areas have had inconsistencies:

- Prioritizing Underserved and Rural Markets
- Loan Proceeds Eligible for Forgiveness
- Guidance on Loan Deferments
- Registration of Loans

The full report may be found here.

NADA's Lifeline Series Webinars Tackle Dealership Action Plans

NADA is working around the clock to make sure dealers have the information they need to combat COVID-19 disruptions. Here is next week's schedule:
· **Tuesday, May 12, 1pm-2pm ET:** *How Digital Retailing Impacts Profitability*. NADA Academy instructor Michael Lucki and Roadster chief marketing officer Michelle Denogean will explore the impact of digital retailing on gross profits, staffing and organizational structure.
· **Wednesday, May 13, 1pm-2pm ET:** *Payment Automation: Your Dealership's Continuity Plan*. Pam Cichoke, VP of sales at Nvoicepay, will discuss how payment automation can ensure accurate and timely payments to your suppliers and secure your payment data, security and availability.
· **Thursday, May 14, 1pm-2pm ET:** *Proactive Recovery: Comprehensive Planning for Reopening Your Dealership*. Ian Grace, senior manager of Partner Performance, will share his approach for reopening dealerships, detailing specific and actionable measures you can take now.
· **Friday, May 15, 1pm-2pm ET:** *The Best Ideas from ATD 20 Groups, Part 2: In Times of COVID-19 Pandemic*. ATD 20 Group consultant Ray Grapsy will review best ideas on business development, marketing, sales, parts and service and communications and discuss key short- and long-term strategy initiatives as dealers recover from the economic damage of the pandemic.

Recordings of all webinars in NADA's Lifeline Series are accessible to NADA and ATD members 24/7, free of charge.

COVID-19 Safety Products to Help Your Dealership Keep Running

Reynolds and Reynolds, your Association's endorsed provider for dealership documents, has created a new line of products to help keep your employees and customers safe during this pandemic crisis, including face masks, hand sanitizer, desk shields, and social distancing signage. Reynolds is offering these products exclusively to their dealership partners and can be your one-stop shop for safety-related products.

To order such products, contact your Reynolds sales rep, or call (800) 344-0996, or contact them by email at RDS@reyrey.com.