



June 30, 2020

Commissioner Geoffrey E. Snyder
Massachusetts Department of Revenue
100 Cambridge Street
Boston, MA 02114

Dear Commissioner Snyder,

On behalf of the Greater Boston Chamber of Commerce, I am writing to provide comments on the Department of Revenue's Working Draft Technical Information Release (TIR) 20-XX: *Massachusetts Tax Implications of Selected Provisions of the Federal CARES Act*. The CARES Act created the Paycheck Protection Program (PPP), allowing small businesses impacted by the COVID-19 economic shutdown to apply for forgivable loans if they keep employees on payroll. Per the Department's draft TIR, PPP loans forgiven under §1106 of the CARES Act will be included in gross income and subject to tax for individual taxpayers, including businesses that file under the individual income tax, but not corporate taxpayers. Given this, we urge the state to conform to the federal income exclusion for PPP loan forgiveness outlined in the CARES Act.

Debt forgiveness typically is treated as taxable income; however, the CARES Act specifically excludes forgivable PPP loans from this provision for federal taxes. Because, in general, Massachusetts follows the federal Internal Revenue Code (IRC) in effect on January 1, 2005 for personal income taxes but uses rolling conformity for corporate income taxes, a business's legal form of organization dictates whether it can fully benefit from the CARES Act's forgivable PPP loans.

Not conforming to the federal income exclusion for PPP loan forgiveness impacts businesses not subject to the corporate income tax. This includes pass-through entities like S corporations and partnerships, which accounted for more than three-quarters of all Massachusetts business tax returns received by the Internal Revenue Services (IRS) in FY 2018.¹ Most pass-through entities are small businesses, making them disproportionately impacted by the choice not to conform to the PPP loan forgiveness exclusion.²

In addition, taxing forgivable PPP loans undermines the benefits Congress provides in the CARES Act. Congress intended for refundable PPP loans to serve as an incentive for businesses to keep employees on the payroll during the COVID-19 crisis. Taxing the refundable portion of these loans undercuts that goal because pass-through entities (S corporations, partnerships, and sole proprietorships) account for almost half (47.6 percent) of all private sector employment in Massachusetts.³

The Chamber acknowledges that the COVID-19 pandemic and economic shutdown put Massachusetts in a difficult and uncertain fiscal position that requires budget writers to balance the need for tax revenue with taxpayer relief. However, the survival of small businesses is equally, if not more, important. The state can provide much needed relief for small businesses by following the intent of the CARES Act and not taxing the forgivable loans keeping many businesses afloat.

Looking beyond this specific tax provision in the CARES Act, the state must prioritize addressing the broader issue of personal income tax conformity. Massachusetts is an outlier in this regard: it is the only state not to update its conformity with the IRC in the past six years.⁴ Updating our conformity reduces compliance burdens for both employers and individuals and can make our tax code more competitive.

¹ [IRS Data Book, Table 3, FY 2018](#)

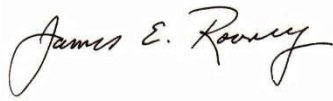
² [2017 Statistics of US Businesses \(SUSB\) Annual Data Tables by Establishment](#)

³ [US Census, County Business Patterns by Legal Form of Organization: 2017, Table CB1700CBP](#)

⁴ [Tax Foundation, 2019](#)

Thank you for your consideration. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "James E. Rooney". The signature is written in a cursive style with a large, stylized initial "J".

James E. Rooney
President and CEO

cc:

Speaker Robert A. DeLeo

Senate President Karen E. Spilka

Chair Eric P. Lesser, Joint Committee on Economic Development and Emerging Technologies

Chair Ann-Margaret Ferrante, Joint Committee on Economic Development and Emerging Technologies

Chair Adam G. Hinds, Joint Committee on Revenue

Chair Mark J. Cusack, Joint Committee on Revenue

Chair Ronald Mariano, Commonwealth Resilience and Recovery Special Committee