Greater Boston Chamber of Commerce

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THE ROAD TO ECONOMIC RECOVERY

Aid Small Businesses: **Support SD172** and Don't Tax PPP Loans

Why are forgivable PPP loans subject to state taxes?

A provision in the CARES Act exempts forgiven Paycheck Protection Program (PPP) loans from the federal income tax. But because the state generally follows the federal Internal Revenue Code (IRC) in effect on January 1, 2005 for personal income taxes (PIT), the state's PIT rules do not automatically update along with federal changes. As a result, currently, employers that pay the PIT – pass-through entities such as sole-proprietors and partnerships – will be taxed on their forgiven PPP loans. (*DOR Guidance*)

Is the state losing money?

No. This is not tax revenue the state normally receives and is now forgoing. Some estimate the state would receive over $165 million by taxing forgiven PPP loans.[1] This is speculation because the data from the Small Business Administration on businesses receiving PPP loans is limited. You cannot reasonably estimate the forgone revenue because the SBA data does not indicate whether PPP loans were forgiven, nor does it indicate whether a business files under the individual income tax.

How does SD172 fix this issue?

This legislation would ensure the state does not tax businesses with particular legal structures for the forgiven loans they received through the federal PPP. Under this proposal such entities, many of which are small businesses, would be permitted to deduct the forgiven loan amounts from their gross income, ensuring they receive the same tax treatment as corporate income taxpayers and that the state does not undermine the aim of the PPP to maintain jobs and economic activity.

Why did businesses take a PPP loan?

Not all businesses would have been profitable without the PPP infusion. A company may have generated revenue that is less than it normally would have, but it maintained payroll, rent, and other expenses so it was able to stay open because of the forgiven PPP. Those that did not turn a profit are potentially not in business any longer.

For profitable businesses that took PPP loans, not all business profit is taken entirely as owner income. Profit can be used to make physical improvements, hire additional employees, provide bonuses and raises to employees, or for many other functions.

Why is this urgent?

Small businesses face financial uncertainty because state taxes for pass-through entities are due March 15 and "owner" returns are due April 15. Read the Chamber's testimony supporting SD172.

[1] If the $165 million is based on a 5% tax rate on income, this assumes that there is $3.3 billion in forgiven PPP loans in Massachusetts, or more than 50% of the total PPP loans that were issued in 2020 to businesses that could potentially pay under the individual income tax code (independent contractors, joint ventures, LLCs, LLPs, partnerships, self-employed, sole proprietors, and s-corporations). As of February 3, 28% of loans made were forgiven with an additional 4% under review. Nearly 68% of loans have not yet applied for forgiveness.