



January 21, 2021

Dear Legislator,

I am writing to urge you to act quickly to adopt SD 172, *An Act providing financial relief to small businesses during the COVID-19 pandemic*. This legislation would ensure the state does not tax businesses with particular legal structures for the forgiven loans they received through the federal Paycheck Protection Program (PPP). Under this legislation 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.

There is a provision in the CARES Act that exempts forgiven PPP loans from federal income tax, so the root of the issue is the state's conformity with the federal tax code, meaning how it aligns with definitions, income calculations, deductions, and other aspects of the federal code.

The state conforms to the federal personal income tax code that was in effect as of January 1, 2005, so the state's personal income tax rules do not automatically update along with federal changes. Instead, the Legislature must act to adopt any changes. As a result, the CARES Act provision that exempts forgiven PPP loans from federal tax does not apply to business entities in Massachusetts that pay the state's personal income tax, including self-employed individuals, sole proprietors, and pass-through entities. It does, however, exempt the loan proceeds from state tax for businesses paying the state's corporate income tax because Massachusetts uses rolling conformity – or real-time updating – for corporate taxes.

According to [data from the Small Business Administration](#), there are thousands of businesses in Massachusetts that took PPP loans and are structured in a way that, if their loans are forgiven, they will be required to pay state income tax on the loan amount. It is clearly not the intent of the program to have these loans taxed because Congress took two rare steps regarding PPP: forgiving loans if payroll and headcount are maintained and exempting forgiven loans from federal income tax. These steps were taken because the purpose of the program is to maintain jobs and business activity. By subjecting the forgiven loans to tax, the state would undercut those goals.

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.

Sincerely,

A handwritten signature in cursive script that reads 'James E. Rooney'.

James E. Rooney
President and CEO