Lake Champlain Chamber

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Senator Ann Cummings
Chair, Senate Committee on Finance
Vermont State House
115 State Street
Montpelier, VT 05633-5301

CC: Members of the Senate Committee on Finance

April 20, 2021

Chair Cummings and Members of the Senate Committee on Finance,

Thank you for providing me with this opportunity to testify today. I look forward to when we can carry out this important work in person. In addition to a written copy of my testimony, I've submitted to the record for your consideration a letter from quite possibly the largest coalition of over 50 organizations, consisting of business and trade associations as well as associations representing the non-profit and medical sectors all imploring you to reverse the decision made in H.315 and allow PPP loans to be treated as non-taxable grants.

I've also submitted into the record for your consideration, correspondence dated May 5th, 2020, sent to the Trump Administration's Treasury Secretary, Stevin Mnuchin, in a bipartisan effort by Senate Finance Committee Chairman Grassley, his Committee's ranking Democratic member Senator Wyden as well as the Democratic Chair of the House Ways and Means Committee, Congressman Neal. This correspondence outlines discontent with the Trump Administration's IRS Notice 2020-32. It presents research conducted by the bipartisan Congressional Research Office reaffirming that it was the explicit intent of Congress that PPP loans would be tax-free grants if forgiven. This underscores the intent and understanding of Congress, that you might have also seen expressed by Senator Leahy, that this program does not function correctly unless the end product functions as a tax-free grant. Unfortunately, the Trump administration maintained the position that forgiven PPP loans were taxable income, forcing Congress to take the extraordinary step of reaffirming their original legislative intent in the Consolidated Appropriations Act, which was the next extensive coronavirus relief bill passed by Congress in 2020.

Due to the language in H.315, the same threat to the proper function of this lifesaving Paycheck Protection Program has reoccurred, as that Vermont legislation makes a forgiven loan a taxable grant under Vermont statute. However, this creates a paradox because if an individual were to have withheld some funding from the loan to pay H.315's new tax liability, they would be ineligible for forgiveness, thereby preventing the loan from becoming a grant which would render it untaxable. The taxable event created in H.315 only occurs if the person has spent every last penny of the loan according to the rules that must be followed to qualify for forgiveness. In contrast, a taxable event does not occur if a person does as H.315 requests and retains some of the money for the newly created tax liability, which would then make the loan ineligible for forgiveness and maintain it as a loan that is not taxable. Of course, there is another scenario in which the recipient receives only partial forgiveness, representing the worst of both scenarios. In short, the paradoxical tax is designed to target people with no money as only people with no money left, or a less than desirable forgiveness situations, are eligible to have their loan converted to a grant. It is a complicated "heads I win, tails you lose" situation, which was already mitigated at the federal level then recreated by Vermont statute. Congress created this program with the intent of being a simple, nonproblematic lifeline to those struggling from a global pandemic and the accompanying recession(s).

I've also submitted in my testimony an infographic entitled, "where did forgiven PPP money go?" which should clarify that the state has already collected tax revenue from the intended spending and downstream economic activity associated with the program. The program injected upwards of $1.02 billion directly into the pockets of Vermont employees who might otherwise have been put on unemployment which by a conservative estimate likely brought about $61 million in personal income tax revenue alone to Vermont coffers. Additionally, those funds cycled through the Vermont economy to eventually reach state coffers in the form of sales and use, rooms and meals, and property tax. In fact, the January 2021 consensus revenue forecast that was created factoring in PPP not being taxable, envisions "personal income tax receipts are expected to reach record levels in the period from FY21 to FY23 and account for much of the above target revenue over this period." The state does not need to tax these forgiven loans for additional revenue in part because these funds have already provided the state with additional revenue. Since then, the passage fo the American Rescue Plan Act has brough billions in additional funding to the state.

In addition, the infographic highlights how this tax is so unique, odd, and paradoxical, as you can see the flow of dollars is only through employers with the employees being the primary recipient. The graphic also highlights how the program functions as a parallel unemployment insurance program. We all remember how strained our UI system has been over the last year; without PPP, the unemployment rates would have been much higher, more businesses would have closed their doors, and the economic fallout would have been more severe. As our state's unemployment system was strained and crashing, PPP created a parallel unemployment system to spread the load, with many employers simply using PPP funds to pay their employees to "stay home, stay safe." Additionally, there is a trauma

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associated with losing one's job, even with UI, and PPP kept this trauma from occurring by retaining employees on the employer's payroll with less uncertainty, and no lost benefits, and full wage replacement.

Treating taxpayers differently for arbitrary circumstances outside their control is just a bad tax policy. While it may seem like a nonarbitrary line, there is little difference between those 2020 PPP recipients who so far have been granted forgiveness in tax year 2020 and those who have been granted or are awaiting forgiveness in tax year 2021. Many individuals lack control over when their PPP loan was forgiven, as two applicants for the same size loan might have applied for forgiveness at the same time in 2020 and for some unknown reason, the forgiveness for one may have been processed before the end of 2020 and the other might still be pending. As we move forward, however, there are notable differences in the demographics that will be affected by this distinction; specifically, those smaller employers who the program was revised to serve better under the Consolidated Appropriations Act and the sole proprietors, women, and minority-owned businesses who were served well by an Executive Memorandum by President Biden which put a hold on any applications other than these. These revisions made the program better serve smaller, more vulnerable businesses as evidenced by the average loan size being roughly $53,000.

Finally, I submitted for the record and for your consideration a Frequently Asked Questions sheet which corrects some of the misconceptions on this issue. This has my contact information for further inquiries.

In conclusion, Congress created the PPP program in what might be one of the scariest and most uncertain times in many of our lives. Congress understood from an early date that the program would only properly function if the relief from these forgiven loans was treated as a tax-free grant, a position that was defended continually by the leadership of both parties as the Trump Administration attempted to tax forgiven loans. If Vermont were to proceed with such a paradoxical tax, it would leave many already struggling employers in a complicated and compromised position due to an arbitrary distinction of what side of a particular day on the calendar a federal employee finally got to their application. Furthermore, Vermont did not establish this program, facilitate this program, and yet has benefited greatly from this program along with billions in additional relief from the federal government leaving additional taxation unnecessary. Finally, those who would most certainly need to pay for such a tax are likely to include those who are most vulnerable, received the least help so far in the pandemic, and least able to pay it.

The Lake Champlain Chamber, along with the over 50 organizations accompanying us on the letter we've submitted for your consideration, implore you to quickly reverse the

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language passed in H.315. Please, allow this federal program to perform unencumbered and as intended and remove this unnecessary additional stress from hard-working Vermonters.

Thank you,

Austin Robert Davis
Government Affairs Manager