

DEALER

The Newsletter of NORTHEAST EQUIPMENT DEALERS ASSOCIATION, INC.

Businesses Have Feb. 1 Deadline to Provide Forms 1099-MISC and 1099-NEC to Recipients

WASHINGTON — The Internal Revenue Service today reminded businesses and other payors that the revised Form 1099-MISC, Miscellaneous Income PDF, and the new Form 1099-NEC, Nonemployee Compensation PDF, must be furnished to most recipients by February 1, 2021.

Redesigned Form 1099-MISC

The IRS revised Form 1099-MISC for the 2020 tax year to accommodate the creation of a new Form 1099-NEC. The redesigned 1099-MISC has different box numbers for reporting certain income. Businesses must send Form 1099-MISC to recipients by February 1, 2021, and file it with the IRS by March 1 (March 31 if filing electronically).

If businesses are using Forms 1099-MISC to report amounts in box 8, Substitute Payments in Lieu of Dividends or Interest, or box 10, Gross Proceeds Paid to An Attorney, there is an exception to the normal due date. Those forms are due to recipients by February 16, 2021.

New Form 1099-NEC

Form 1099-NEC is a new form for tax year 2020 for nonemployee compensation of \$600 or more to a payee. This form should be filed with the IRS, on paper or electronically, and sent to recipients by February 1, 2021.

There is no automatic 30-day extension to file Form 1099-NEC. However, an extension to file may be available under certain hardship conditions. Also, non-employee compensation may be subject to backup withholding if a payee has not provided a taxpayer identification number to the payer or the IRS notifies the payer that the Taxpayer Identification Number provided was incorrect.

Deadlines help fraud detection

The due dates for information return, like Forms 1099-MISC and 1099-NEC help the IRS more easily detect refund fraud by verifying income that individuals report on their tax returns. Payors can help support that process, and avoid penalties, by filing the forms on time and without errors. The IRS recommends e-file as the quickest, most accurate and convenient way to file these forms.

For more information, the instructions for Forms 1099-MISC and 1099-NEC are available on [IRS.gov](https://www.irs.gov).

IR-2021-14, January 14, 2021

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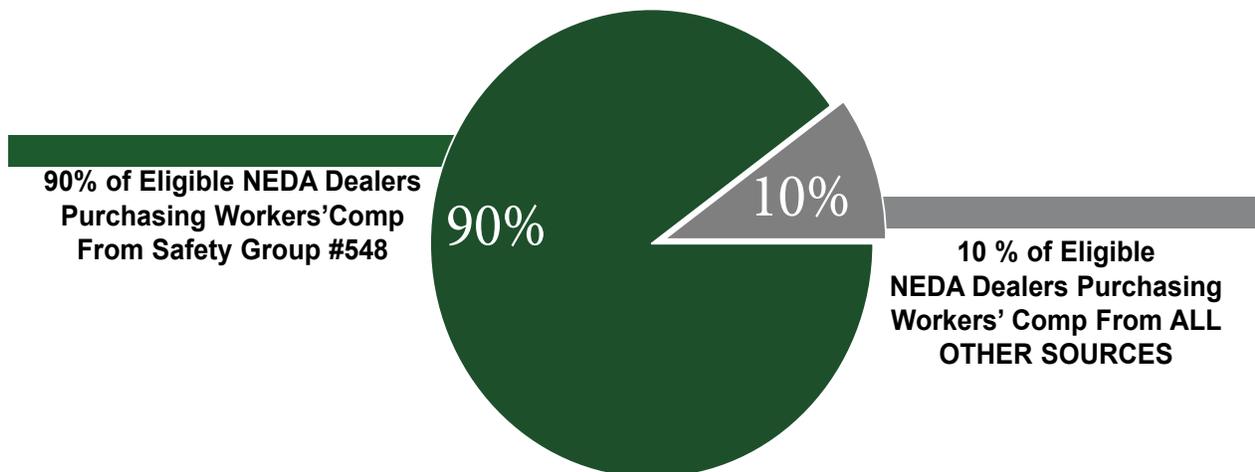
Policy Year	Dividend
2018-2019	40.0%
2017-2018	40.0%
2016-2017	35.0%
2015-2016	30.0%
2014-2015	20.0%
2013-2014	15.0%
2012-2013	15.0%
2011-2012	5.0%
2010-2011	20.0%
2009-2010	25.0%

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Observations from the **FIELD**

Thankfully, most reports I have received continue to indicate that 2020 was a profitable year for most dealers, with a select number reporting that 2020 was their most profitable ever. Based on what I have heard from dealers so far, the trend seems to be carrying through into 2021. Shops are full, parts turns are consistent/strong, whole goods profit margins and turns are meeting or exceeding projections. Fingers crossed!

It is difficult to predict what impacts the new administration's policies will have on the agricultural industry/marketplace. I have noticed that there are some reoccurring themes carrying through many of the media's experts. Expectations are that commodity prices and farmer sentiment will continue to remain strong. The stock market has responded positively to Ms. Yellen's appointment, and her comments regarding continuing/expanded governmental stimulus. Milk prices are expected to be lower but less volatile. The value of the dollar is expected to decline, supporting continued expansion of export opportunity. That is not to say that 2021 will not be without its challenges: reaching herd immunity for COVID-19 will be a most difficult challenge, as well as managing governmental (federal, state, and local) budgets/debt and so many other things!

COVID-19 continues to complicate our legislative work advocating against right-to-repair (R2R), for over-width permits in PA, and in support of agricultural friendly legislation, as well as updates and amendments to state fair dealer laws, all while maintaining our continued tracking of COVID-19 legislation and regulation. As of this writing, we have introduced R2R legislation in VT, MA, NY and NH, and an amendment to the warranty compensation section of CT's fair dealer law. My expectation is that R2R legislation will be introduced in the balance of the states if not all of the states in our AOR.

Legislatures have adapted to travel and quarantine regulations virtually by eliminating face-to-face visits, forcing us to rely even more on our phones, e-mail correspondence and Zoom/web meetings. Unfortunately, phone calls and e-mail and web meeting invites are easily ignored, making "personal relationships" and/or constituent "grassroots" activity invaluable tools to effective legislative work. In the past, when we have had the opportunity to make in-person visits with dealers and legislators, NEDA has been reasonably effective at "grassroots" organizing/activity/action in the legislative, more especially when we have had the ability to leverage "grassroots" work with the support and guidance of a lobbyist who can bring their personal and professional relationships to the table.

No one knows how COVID-19 will impact the marketplace in 2021. We know there have been a flurry of R2R bills introduced and fully expect that we will see many more yet to come as advocates try to leverage their success advocating for the auto telematics ballot initiative in MA. In my opinion, COVID-19 and the public's increased reliance on the "internet" as a resource for news, information and community has enhanced the R2R advocates' ability to use social media, online publications and other internet platforms to build new networks and expand their support base! Legislators will respond. If we are to be effective advocates, we will need both a strong financial position (enabling the association to retain lobbyists where necessary) and active dealer participation in our grassroots campaigns.

Simply put, our ability to act on your behalf depends on you. We need your help recruiting new members, participating in, and financially supporting our legislative work. Please consider making a contribution to NEDA's legislative fund!

When you REAP the benefits of membership, your PROFITS will follow!



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Field Director / Legislative
Committee Chairman

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ASSOCIATION NEWS

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together we can
accomplish great things!

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New Fulton and Watertown Stores Opened January 4th!



We are pleased to announce that we opened our new Watertown and Fulton locations for business on January 4th 2021!

Cazenovia Equipment is merging its current Sandy Creek and Watertown locations into a new facility in the Route 3 Agribusiness Park in the town of Watertown (20897 Alexander Dr., Watertown). We will offer residential, commercial, and agricultural parts, sales and service. Due to public health concerns, opening ceremonies and an open house will be delayed until spring or summer.

The new Fulton store will be off Route 3 (1 S. 12th St., Fulton) and the location will offer customers of Oswego and Onondaga counties continuity of service as the Sandy Creek location merges into Watertown. The facility will offer residential equipment parts, sales and service and agricultural parts. Agricultural sales and service for the area will be covered by the Cazenovia and Watertown sales and service departments.

In order to relocate both stores expeditiously, **the Sandy Creek and current Watertown store are now closed.** The Fulton/Sandy Creek locations can be reached at 315-387-3412 and Watertown can be reached at 315-785-8153.



New Watertown Store
20897 Alexander Drive, Watertown



New Fulton Store
1 South 12th Street, Fulton

Karl von Hahmann Scholarship for Students

NEDA member **EMPIRE TRACTOR** has coordinated with Wayne Finger Lakes BOCES to set up a Scholarship for Students in honor of its former employee Karl von Hahmann, 56, who died on December 1, 2020 after following a four-year courageous battle with Multiple Myeloma. For more information on how to donate, [CLICK HERE](#)

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In Memoriam

Lois Y. Peterman

Lois Y. Peterman, age 81 of Carlisle, passed away December 30, 2020 at home surrounded by her family. Born October 15, 1939 in Lansdale, PA, daughter of the late Abram and Esther (Delp) Ziegler.



Lois worked alongside her husband and children as the office manager for over 50 years at Peterman Power Equipment. She was a member of The Meeting House (formerly the Carlisle Brethren in Christ Church). She loved to be at home with her family, loved to read and loved to travel to any shore point from New Jersey to South Carolina to Florida. Lois also sang in the church choir for over 57 years.

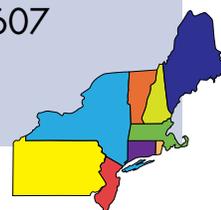
Lois is survived by her husband, Ralph Peterman, whom she married on October 24, 1959; son, David (Cheryl) Peterman, Carlisle; daughter, Diane (Steve) Fabo, Boiling Springs. David and Diane both currently work at Messick's Farm Equipment in Carlisle.

In lieu of flowers, please make donations to The Meeting House, 1155 Walnut Bottom Rd., Carlisle, PA 17015 or to The Michael J. Fox Foundation, PO Box 5014, Hagerstown, MD 21741-5014.

The impact (value) of the association's legislative advocacy, work-force development, and Industry Relations work can easily be overlooked. Our efforts cannot be accomplished without significant financial investment, support, and grassroots participation. If we're to continue that work, we are going to need your help participating in and financially supporting our legislative work, association governance/direction, and program development. We need your help recruiting new members, participating in legislative visits, giving testimony, contributing financially to the legal/legislative fund, association governance/direction, and program development!



When you REAP the benefits of membership, your PROFITS will follow! Call Ralph Gaiss at 800-932-0607 for questions and support.





February 2021



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Equipment Dealers Association Releases 2020 Compensation & Benefits Report

The Equipment Dealers Association (EDA) has released its 2020 Compensation & Benefits Report.

This report is the industry's most comprehensive collection of data related to benefits and wages for dealership employees in North America. Data from the report is collected every two years from agriculture and outdoor power equipment dealers in the United States and Canada.

[Read more](#)



Greg Bennett Joins HBS Systems to Lead Equipment Dealership and Rental Software Sales



January 4, 2021 – HBS Systems, Inc., a leading dealership management software company, announced Greg Bennett as its new Director of Sales.

Bennett, the son, and grandson of Indiana farmers is a veteran equipment expert with more than 25 years of experience leading teams in the equipment dealership and rental software industry. In this new role, Greg will drive the company's sales strategy, technology partnerships, and growth opportunities.

Bennett began his career with the JLG Caterpillar Alliance and most recently served as VP of Sales at Point of Rental leading the expansive growth to more than 70+ countries. He began his duties with HBS Systems in 1st Qtr. 2020 and has already had a positive impact on the 35-year-old industry-leading equipment dealer software company, increasing sales and influencing the development team in addition to adding two new Regional Sales Managers, Kasey Klopfenstein in the South-west Region and Matt Petrov in the Western Region.

"Greg's extensive sales and management leadership experience position him well to enhance HBS System's fully integrated ERP growth while we continue advancing our technology," said Chad Stone, HBS Systems President & CEO. "He understands the complexities of building out and leading a global sales organization with a strong focus on driving efficiencies that will benefit HBS Systems, its customers, and our partners."

"It's an honor and privilege to lead the incremental sales growth we've experienced to date", said Greg Bennett, Director of Sales, HBS Systems. "We are well-positioned to expand beyond North America. I look forward to increasing the equipment dealerships we serve within all industry verticals."

About HBS Systems, Inc.

Since 1985, HBS Systems, Inc. has served equipment dealers, manufacturers, and distributors worldwide in the agricultural, aggregate, construction, industrial, and material handling equipment industries with our web based NetView ECO platform. Our integrated OEM solutions simplify complex Kubota, John Deere, CNH Industrial, Case Agriculture and Case Construction, New Holland Agriculture and New Holland Construction, AGCO, Bobcat, Vermeer, and CLAAS processes with automation and an intuitive design. NetView ECO improves the equipment dealership's accuracy, usability, and efficiency, leading to increased profitability and customer satisfaction.

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To learn more, contact our experienced team at sales@hbssystem.com, 800-376-6376, visit www.hbssystem.com or contact Lisa Bennett, HBS Systems, Email: lbennett@hbssystem.com

Western PA Credit Card SCAM



NEDA has been notified by a dealership of a credit card scam occurring in Western PA and could continue further in the Northeast States. Read the details below:

We received a call for the equipment back in December. An over the phone transaction is not unheard of or out of the ordinary these days. The gentleman picked it up, we have him on our cameras (See picture below). He did not have a driver's license to copy so I took a picture of his car and license plate. He did not flinch at it. 10 days later, the charges were "disputed", and they charged us back for the \$2,600. American Express and Merchant Services said that there was nothing they could do because it was a phoned in credit card. We advised them that half of the sales and service are keyed in credit cards due to the pandemic. We filed a police report and figure that was it. Then everything started to unravel.

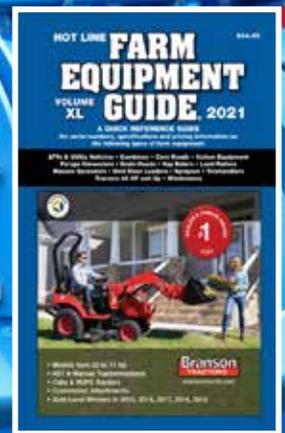
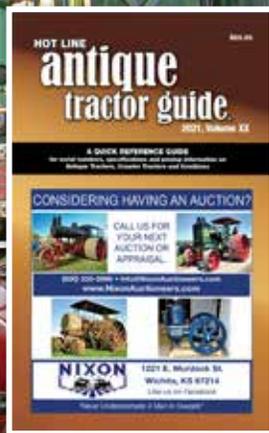
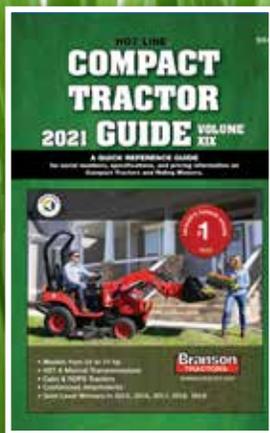
I got a call right before the new year from a

dealer in the South Side of Pittsburgh. He buys equipment through us to resell to big construction companies and the mills with his contracts. He was quoting 3 Stihl chop saws. I just so happened to ask him if he had gotten a call from a woman from a property's management company quoting equipment. Sure enough, this was what he was quoting. Our local policeman advised him to call the City of Pittsburgh police. They set up a sting and caught 2 guys, 1 ran. The U-Haul was empty. They let the guys go since they stated they were just runners and had no information about the scheme.

Since then, Action Equipment in Washington PA got hit for a ProZ160, over \$8,000, Ace Hardware in Smith Township got hit for a couple backpack blowers, Hasting Hardware got hit for a Ferris Zero, over \$8,000 and Stanford Home Center was hit.

BE ALERT!!

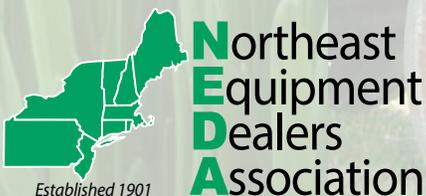
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...

BY TIM WENTZ

Field Director / Legislative
Committee Chairman

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WORKFORCE DEVELOPMENT

Last month I reviewed some of the accomplishments and successes that our workforce development and apprenticeship programs experienced in 2020 despite Covid-19. I also highlighted areas for improvement and focus for 2021.

Although we have a long way to go, I am happy to report that we are making progress!

We engaged with several Ag Mech teachers and participated in the PA Department of Education's bi-annual review of the state's Ag Mech task list (an outline teachers use to identify what subjects are to be taught) and participated in follow up discussions focused on building additional teacher development, resources, and support infrastructure.

As a result of our participation and continuing engagement with AG teachers, the professional development office, and legislators, we have been able to garner the attention of Department of Education leadership who have also voiced support of our efforts to build out supplemental support and infrastructure for teachers and students. It will take a team effort to identify how best to support the delivery of curriculum focused on diesel, hydraulics, and electrical systems (12 volt) within a CTE (career and technical education) system that is delivered and managed locally, regulated, and substantially funded by the state! Definitely a challenge!

We were also able to engage a new related education provider for the Ag Technician apprenticeship, **Johnson College in Scranton, Pennsylvania**. The college and NOCTI established a relationship enabling both participating apprentices and current students not enrolled in the program to have access to our skills validation/competency tests and the associated digital credentials we have sponsored. In addition, Johnson College has indicated that they are willing and able to act as an independent test administrator, both written and performance sections, for dealers and their apprentices/pre-apprentices! All of this is great news for our dealers and their apprentices.

As part of our workforce development/career promotion efforts, we participated in a virtual panel discussion with Dean of the PSU College of Agriculture Dr. Richard Roush of PSU, Delaware Valley College's Dean of Agriculture and Environmental Sciences. Dr. Sandelin along with several other Ag related employers in a virtual panel discussion hosted by the 2021 PA Farm Show. The discussion was well received and was an outstanding opportunity to promote both the apprenticeship program and other career opportunities at our dealerships. Please let me, Dave, or Ralph know if you hear of any other similar opportunities!

I am also happy to report that with the help and support of EDA we were able to facilitate an Apprenticeship presentation by the PA Department of Labor Apprenticeship Office staff and management to members of EDA's workforce development council. Our hope is that that "others" might also adopt the apprenticeship model.

Please remember that our Ag Technician Skills validation/skills validation test has been added to your association's website at (<https://www.ne-equip.org/member-benefits/education-programs/employee-skills-test/>). Dealers and leading technicians have confirmed that the test does what it is intended to do"! The cost for members is \$65.00 each, and \$100.00 each for non-members.



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AN ACT CONCERNING FAIR REIMBURSEMENT TO RETAIL DEALERS OF POWER EQUIPMENT

ATTENTION ALL DEALERS: Please take time to read the bill. It represents just one piece of the legislative work NEDA has undertaken on behalf of your dealership and your fellow equipment dealers in Connecticut in 2017. Respectfully, we ask that you help us ensure this bill is enacted this session! If you are located in CT, please call your legislator and ask that they support the bill. If you know of a dealer in CT who is not a member of NEDA ask them to join your association, call their legislator and support our legislative work on behalf of dealers!

GENERAL ASSEMBLY - RAISED BILL NO. 264 - JANUARY SESSION, 2021 - LCO NO. 1326

Referred to Committee on GENERAL LAW - Referred to Committee on GENERAL LAW

AN ACT CONCERNING FAIR REIMBURSEMENT TO RETAIL DEALERS OF POWER EQUIPMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 42-351 of the general statutes is repealed and the following is substituted in lieu thereof (Effective January 1, 2022):

3 (a) Whenever a supplier and a dealer enter into a dealer agreement that provides for consumer warranties, the supplier shall pay any warranty claim made for parts and service not later than thirty days after receipt and approval of such claim by the supplier. The supplier shall approve or disapprove a warranty claim not later than thirty days after receipt of such claim by the supplier. If a warranty claim is not disapproved in writing by the thirtieth day after receipt of such claim by the supplier, it shall be deemed to be approved and payment shall be made by the supplier not later than thirty days thereafter.

12 (b) A supplier that pays a

warranty claim pursuant to subsection (a) of this section shall pay the dealer the current net price plus eighteen per cent for any parts and the posted hourly labor rate the dealer charges consumers for nonwarranty repair work for service that has been previously made known to the supplier, provided such rate is reasonable, as compared to other same brand dealers of similar size in the geographic vicinity of the dealer.

19 (c) A supplier shall not deny a warranty claim made by a dealer pursuant to subsection (a) of this section or charge-back such a claim following a timely audit based solely on the dealer's failure to comply with a claim processing procedure, a clerical error or other administrative technicality, provided the failure to comply does not call into question the legitimacy of the claim without allowing the dealer an opportunity to resubmit a denied claim accord-

ing to reasonable supplier guidelines not later than thirty days after the initial claim denial or charge-back. A reasonable deadline to submit claims or supporting materials required by the supplier shall not be considered a claim processing procedure or administrative technicality.

This act shall take effect as follows and shall amend the following sections: Section 1 January 1, 2022-42-351

Statement of Purpose: To ensure fair reimbursement to retail dealers of power equipment regarding certain warranty claims.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Right-To-Repair Law Passes, Automakers File Federal Suit

BY DAN SHELL

ARTICLE COURTESY OF: SOUTHERN LOGGIN' TIMES / TIMBER HARVESTING / WOOD BIOENERGY, TIMBER PROCESSING / PANEL WORLD / POWER EQUIPMENT TRADE

While the legislation that passed in Massachusetts during the November election was targeted to the automotive industry, the same principle now applies to all equipment-servicing facilities in the state: When customers buy a piece of equipment (or car) they also buy complete access to the data streams that are gen-

erated during technical and diagnostic procedures as part of a service or maintenance job. The new Massachusetts law—which passed with 75% approval from voters—requires manufacturers to equip vehicles with standardized open data software platforms by 2022.

The legislation also states that

such a standardized open data platform has to give vehicle owners and independent repair facilities direct access and the ability to retrieve mechanical data and run diagnostics through a mobile-based application.

Massachusetts voters had already passed landmark right-to-repair legis-

continued on page 20

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What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws

QUESTIONS & ANSWERS INCLUDED

Technical Assistance Questions and Answers - Updated on Dec. 16, 2020

For the entire 29 page article, please **CLICK: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission (eoc.gov)**

- **All EEOC materials related to COVID-19 are collected** at www.eoc.gov/coronavirus.
- The EEOC enforces workplace anti-discrimination laws, including the Americans with Disabilities Act (ADA) and the Rehabilitation Act (which include the requirement for reasonable accommodation and non-discrimination based on disability, and rules about employer medical examinations and inquiries), Title VII of the Civil Rights Act (which prohibits discrimination based on race, color, national origin, religion, and sex, including pregnancy), the Age Discrimination in Employment Act (which prohibits discrimination based on age, 40 or older), and the Genetic Information Nondiscrimination Act. Note: Other federal laws, as well as state or local laws, may provide employees with additional protections.
- Title I of the ADA applies to private employers with 15 or more employees. It also applies to state and local government employers, employment agencies, and labor unions. All nondiscrimination standards under Title I of the ADA also apply to federal agencies under Section 501 of the Rehabilitation Act. Basic background information about the ADA and the Rehabilitation Act is available on EEOC's disability page.
- The EEO laws, including the ADA and Rehabilitation Act, continue to apply during the time of the COVID-19 pandemic, but they do not interfere with or prevent employers from following the guidelines and suggestions made by the CDC or state/local public health authorities about steps employers should take regarding COVID-19. **Employers should remember that guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, employers should continue to follow the most current information on maintaining workplace safety.** Many common workplace inquiries about the COVID-19 pandemic are addressed in the CDC publication "General Business Frequently Asked Questions."
- The EEOC has provided guidance (a publication entitled *Pandemic Preparedness in the Workplace and the Americans With Disabilities Act* [PDF version]) ("Pandemic Preparedness"), consistent with these workplace protections and rules, that can help employers implement strategies to navigate the impact of COVID-19 in the workplace. This pandemic publication, which was written during the prior H1N1 outbreak, is still relevant today and identifies established ADA and Rehabilitation Act principles to answer questions frequently asked about the workplace during a pandemic. It has been updated as of March 19, 2020 to address examples and information regarding COVID-19; **the new 2020 information appears in bold and is marked with an asterisk.**
- On March 27, 2020, the EEOC provided a webinar ("3/27/20 Webinar") which was recorded and transcribed and is available at www.eoc.gov/coronavirus. The World Health Organization (WHO) has declared COVID-19 to be an international pandemic. The EEOC pandemic publication includes a separate section that answers common employer questions about what to do after a pandemic has been declared. Applying these principles to the COVID-19 pandemic, the following may be useful:
THIS IS A SMALL SAMPLE OF THE INFORMATION ON THIS WEBSITE OF 29 PAGES PUBLISHED BY THE EQUAL OPPORTUNITY COMMISSION ON THESE IMPORTANT SUBJECTS—INCLUDING QUESTIONS AND ANSWER SECTION. PLEASE GO TO THEIR WEBSITE BY CLICKING HERE.
What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission (eoc.gov)

New EEOC Guidance on employers mandating employees be vaccinated against COVID-19

Here is an article explaining a new addition (12/16/20) to the excellent EEOC guidance called, "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws." The new addition addresses EEOC's position on what the law allows regarding an employer mandate that employees to be vaccinated against COVID-19. In webinars and on this listserve, I have frequently stated that I believe this EEOC guidance is the best resource out there on EEOC issues with COVID-19 and it is also easy to read and find answers. The article is followed by the actual document from the EEOC. The news is generally good for employers who wish to implement such mandates.

~ Courtesy of The National Law Review – Read more – EEOC on Employer Mandatory COVID-19 Vaccination (natlawreview.com)

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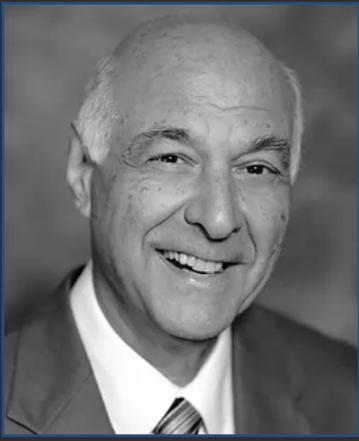
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BY DR. BART BASI

... Consolidated Appropriations Act of 2021, calls for direct payments to individuals and funding to other various communities and sectors that have been hit hardest directly by COVID-19.

Financial, Legal & Tax Advisory Information

An Analysis and Overview of The Second Round of PPP Funding

On December 27, 2020, late Sunday night, President Trump signed into law the \$900 billion COVID-19 relief bill that was passed approximately a week before by Congress. The legislation, the Consolidated Appropriations Act of 2021, calls for direct payments to individuals and funding to other various communities and sectors that have been hit hardest directly by COVID-19.

This article will specifically examine the second round of **Paycheck Protection Program (also known as PPP2)** funding administered by the Small Business Association using local banks of potential applicants. First, it will discuss who is eligible to apply for PPP2 funds. Next, it will discuss the loan terms of PPP2 funds in addition to changes that have been made with regards to obtaining funding. Finally, it will address the tax deductibility issue created by the bill.

PPP2 loans will be available to first-time qualified borrowers in addition to businesses that previously received a PPP loan. Specifically, previous PPP recipients may apply for another loan of up to \$2 million, provided they meet the following guidelines:

- Business has 300 or fewer employees.
- Business must have used or will use the full amount of their first PPP loan.
- Business can show a 25% gross revenue decline in any 2020 quarter compared with the same quarter in 2019.

PPP2 also provides potential funding to Sec. 501(c)(6) business leagues, such as chambers of commerce, visitors' bureaus, etc., and destination marketing organizations, provided they have 300 or fewer employees and do not receive more than 15% of receipts from lobbying. The bill allows borrowers that returned all or part of a previous PPP loan to reapply for the maximum amount available to them.

PPP2 will also permit first-time funding to the following entities:

- Businesses with 500 or fewer employees that are eligible for other SBA 7(a) loans.
- Sole proprietors, independent contractors, and eligible self-employed individuals.
- Not-for-profits, including churches.
- Accommodation and food services operations with fewer than 300 employees per physical location.

As with the first round of PPP funding, the costs eligible for loan forgiveness with PPP2 include payroll, rent, covered mortgage interests, and utilities. PPP2 also makes the above costs eligible for forgiveness so long as the same terms that applied for PPP1 are followed: the borrower must spend no less than 60% of the funds on payroll over the covered period of eight weeks or twenty-four weeks. The PPP borrower will likely receive 2.5 times their average monthly payroll cost in the year prior to the loan or the calendar year, similarly to PPP1.

The new COVID-10 relief bill also simplifies the application process for loans under \$150,000 or less. Specifically, a borrower shall receive forgiveness if a borrower signs and submits to the lender a certification that is not more than one page in length, includes a description of the number of employees the borrower was able to retain because of the loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. The SBA must create the simplified application form within 24 days of the bill's enactment and may not require additional materials unless necessary to substantiate revenue loss requirements or satisfy relevant statutory or regulatory requirements.

Borrowers are required to retain relevant records related to employment for four years and other records for three years, as the SBA may review and audit these loans to check for fraud. The bill also specifies that business expenses paid with forgiven PPP loans are tax-deductible. This supersedes IRS guidance that such expenses could not be deducted and brings the policy in line with what the AICPA and hundreds of other business associations have argued was Congress's intent when it created the original PPP as part of the CARES Act. The COVID-19 relief bill clarifies that "no deduction shall be denied, no tax attribute

continued on page 17

President Trump Signs Omnibus, COVID-19 Relief into Law

On Jan. 3, 2021, President Trump signed the Consolidated Appropriations Act, 2021, which includes COVID-19 relief through its Additional Coronavirus Response and Relief section, into law. Despite initial criticism from the President last week, Congress made none of the changes previously requested by the President. Key provisions within the COVID-19 portion of the law include:

- Stimulus checks for eligible individuals
- The extension of certain unemployment benefits
- An extended and expanded Employee Retention Credit
- Changes to existing Paycheck Protection Program (PPP) loans, including clarification that expenses paid with forgiven PPP loan funds will now be deductible for federal income tax purposes
- A second draw PPP loan for eligible businesses
- The extension of several tax credits and deductions

For a summary of the law's major COVID-19 provisions, visit Agreement Reached! New Stimulus Package Expected to be Passed into Law.

Over the coming days and weeks, it is expected that additional guidance will be issued from agencies including the Small Business Administration (SBA), Department of the Treasury, Department of Labor (DOL), Internal Revenue Service (IRS), and others that may facilitate these COVID-19 relief programs. Individuals and businesses interested in these relief options are encouraged to watch for this guidance as well as communications that may indicate when such programs are made available.

For questions regarding this law or your COVID-19 relief options, please contact your CPA Advisor.

FMCSA Grants Extension of CDL/CLP/Medical Certificates Waiver

Recently, the Federal Motor Carrier Safety Administration (FMCSA) extended the CDL/CLP/Medical Certificates waiver that was set to expire on Dec. 31, 2020. FMCSA recognizes that backlogs remain at State Driver's License Agencies (SDLA) across the country. In addition, the Agency noted a resurgence of stay-at-home orders and other emergency measures that may cause further economic and logistical disruptions.

This waiver becomes effective on Jan. 1, 2021 and expires on Feb. 28, 2021. It is important to note that the waiver provides states with the authority to extend expiration dates, but it is up to the state to do so.

Full details are available: Waiver in Response to the COVID-19 National Emergency –For States, CDL Holders, CLP Holders, and Interstate Drivers | FMCSA ([dot.gov](https://www.fmcsa.dot.gov))

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See page 19 for additional information.

Second Round of PPP Funding

continued from page 16

shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided" by Section 1106 of the CARES Act (which has been redesignated as Section 7A of the Small Business Act).

This provision applies to loans under both the original PPP and subsequent PPP loans. While the CARES Act excluded PPP loan forgiveness from gross income, it did not specifically address whether the expenses used to achieve that loan forgiveness would continue to be deductible, even though they would otherwise be deductible.

In April, the IRS issued Notice 2020-32, which stated that no deduction would be allowed under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a PPP loan because the income associated with the forgiveness is excluded from gross income for purposes of the Code under CARES Act Section 1106(i).

In November, the IRS then expanded on this position by issuing Rev. Rul. 2020-27, which held that a taxpayer computing taxable income based on a calendar year could not deduct eligible expenses in its 2020 tax year if, at the end of the tax year, the taxpayer had a reasonable expectation of reimbursement in the form of loan forgiveness based on eligible expenses paid or incurred during the covered period. Treasury Secretary Steven Mnuchin also argued against businesses being able to deduct business expenses paid with forgiven, tax-free PPP funds, calling it an unwarranted double benefit for businesses.

If you own a small business and have any questions regarding applying for a second round of PPP loans, forgiveness on the loan, or any questions regarding the treatment of PPP loans during a sale or transfer of your company, please reach out to the professionals.

Article courtesy of Bart Basi, Basi & Associates at The Center for Financial, Legal & Tax Planning, Inc. Marion, IL Phone: (618) 997-3436 | Fax: (618) 997-8370 | www.taxplanning.com

EEOC Permits Employers to Mandate COVID Vaccinations to Employees: Now What?

After saying goodbye to a tumultuous and uncertain 2020, there are strong signs that in 2021, life as we once knew it, will once again return to some level of normalcy. This means employers can look forward to re-opening their doors to employees, clients, patients and customers.

The U.S. Food and Drug Administration ("FDA") has just granted Emergency Use Authorization for two COVID-19 vaccines. With the distribution of these vaccines, employers will now face a different set of challenges as they grapple with the decision of whether or not to require employee vaccination.

As a result, employers must now, possibly at break-neck speed, determine and then draft their new vaccine policy. In doing so, employers must address precisely how to handle an employee who refuses to comply. Most importantly, employers must also determine how to navigate potential legal pitfalls that could lead to costly employment litigation all while attempting to keep their businesses afloat and their workforce safe and healthy.

Under the Federal Occupational Safety and Health Act ("OSHA") and many states' laws, employers are obligated to provide a workplace free from serious recognized hazards. To comply with these requirements, employers have the right to establish legitimate health and safety standards, policies, and requirements so long as they are job-related and consistent with business necessity. Many employers already provide employees with flu vaccinations, which are in many cases mandated in industries such as health and education. However, expanding these same policies and practices to include mandatory COVID-19 vaccinations will bring a sense of calm to most workforces, but could also potentially invite fear and resistance from others. Anticipating the emotional reaction and preparing in advance, are key to protecting against claims.

The U.S. Equal Employment Opportunity Commission ("EEOC") recently released long awaited updated guidelines indicating that employers can mandate vaccinations in furtherance of creating a safe workplace, see Section K. The EEOC guidelines state that employers may require an employee to receive a vaccination from the employer, or a third party with whom the employer contracts to administer a vaccine.

To read the full article from Federated Employment Practices Network on the EEOC's Guidelines Allowing Employers to Mandate Employees Be Vaccinated-- with Exemptions,

[CLICK HERE](#)

PPP Changes in COVID Relief Bill Offer More Aid for Farmers

Starting Jan. 1, additional \$325 billion available for popular Payroll Protection Program.

~ Jacqui Fatka

In the midst of the pandemic, the popular government's response to small businesses in the Paycheck Protection Program got a needed boost of funds in the latest action by Congress to offer additional funds to meet the ongoing challenges of the coronavirus market impacts. Specifically, the bill provides \$325 billion to support struggling businesses, including an additional \$284 billion for PPP.

Those who signed up during the first round can again apply for new loans starting Jan. 1st, 2021.

During the first round of PPP, which ran out of funds in August, those businesses in the farming, forestry and hunting sector received \$8.18 billion, which is considerable since each year the average take home pay for the sector is \$100 billion, explains Jackson Takach, chief economist at Farmer Mac. Dairy and miscellaneous crops (such as vegetables) were the highest users of PPP in the sector, and all regions benefited.

A major win in the update allows expenses paid by the PPP loan to be tax deductible in 2020 and streamlines forgiveness for loans under \$150,000. Takach says allowing the tax forgiveness on any PPP loans taken out takes a "little bit of a load off" those in the agricultural sector who already as an industry tend to be very tax aware.

The legislation also clarifies the eligibility of sole proprietor farmers and ranchers for PPP to more fully facilitate the participation of farmers and ranchers in PPP. It also simplifies the loan forgiveness process for PPP loans up to \$150,000 to help farmers, ranchers, rural businesses, and health care providers participating in PPP, as well as their commercial bank and Farm Credit System lenders. It also repeals the requirement of deducting an Economic Injury Disaster Loan Advance from the PPP forgiveness amount.

Takach says this will be a big help as the average size of the ag PPP loan was \$84,000 to \$85,000 and over 90% of all the PPP loans to ag producers were under \$150,000. "I think this will offer a net benefit for those who were tapping into the PPP program and an easier path to loan forgiveness and not as much stress on the recordkeeping aspects," he adds.

The final bill also helps ensure farmers, ranchers and rural communities have equal access to PPP loan funding through a set-aside for lenders with less than \$10 billion in assets that includes rural commercial banks and Farm Credit institutions. It also creates a set-aside for very small businesses with 10 or fewer employees and for small businesses located in distressed areas.

It also clarifies that deductions are allowed for expenses paid with proceeds of a forgiven PPP loan, effective as of the date of enactment of the CARES Act and applicable to subsequent PPP loans. This same tax treatment also applies to EIDL grants and certain loans and loan repayment assistance.

~ Courtesy of Farm Progress Daily



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Right-To-Repair Law Passes

continued from page 12

lation in 2012 that required automakers to use a nonproprietary plug-in to access a machine's onboard diagnostic port so third-party vendors could repair or service it, but that law had specifically exempted data that was transmitted wirelessly.

Yet as equipment systems and maintenance procedures have grown more sophisticated since the initial Massachusetts law was passed eight years ago, with more procedures and data now being handled online, right-to-repair advocates had taken up the wirelessly transmitted data exemption as an issue to overturn in future legislation.

Within weeks of the November election, automakers filed suit in a U.S. District Court in Massachusetts, primarily claiming that the law's short timeline is impossible to meet when vehicle development cycles run three to five years.

Now, major automakers allege in a federal lawsuit filed after the election that the revised law poses cybersecurity and vehicle safety risks, and the short timeline sets an "impossible task" for compliance.

The Alliance for Automotive Innovation — which represents General Motors, Ford, Toyota, Volkswagen, and other automakers — filed the suit Nov. 20 in U.S. District Court for the District of Massachusetts, requesting that the court find the law "unenforceable because it is unconstitutional" and conflicts with federal laws.

Automakers are right to be concerned. Despite its relatively small size, Massachusetts' requirement passed in 2012 requiring standard plug-ins to data ports was soon extended to cars nationwide, and the industry does not want to see the same thing happen with data platforms.

On the face of it, the issue seems clear-cut: I bought it, I own it, and I need access to all hardware and software to repair it.

Manufacturers counter that consumers already have or can find all the information and equipment they need to handle all standard repairs and maintenance—but complete access that includes the ability to modify software settings poses serious safety, security, and environmental risks.

According to the Outdoor Power Equipment Institute (OPEI), state legislation on the issue, in Massachusetts and in other states where similar laws have been proposed, is too broad and mixes the more acceptable right to repair with the unacceptable "right to modify."

OPEI, as part of a coalition of suppliers, OEMs and groups including multiple dealer associations, has made its position clear in a statement of principles.

This includes a commitment from OPEI members to provide end users with increased resources by 2023 that includes fleet management information, electronic field diagnostic tools and all related information and materials.

HOWEVER, OPEI AND ITS MEMBERS DRAW THE LINE AT ALLOWING THIRD PARTIES TO ALTER OR RESET SECURITY FEATURES SUCH AS IMMOBILIZER SYSTEMS, REPROGRAM ENGINE CONTROL UNITS, CHANGE ANY SETTINGS RELATED TO EMISSIONS OR SAFETY COMPLIANCE OR ACCESS ANY EMBEDDED SOFTWARE OR CODE.

Grain Prices Soar on Bullish USDA reports

Markets break past prior price resistance on lower stocks

Ben Potter | Jan 12, 2021

Tightening 2020/21 U.S. and South American corn and soybean production estimates led USDA to slash global ending stocks, powering price growth in the aftermath of USDA's January 2021 World Agricultural Supply and Demand Estimates (WASDE) reports this morning.

Higher-than-expected corn usage rates in late 2020 also depleted U.S. corn supplies more than the market was estimating. 2020/21 winter wheat sowings came in smaller than trade estimates, and the Argentine crop shrunk, lending support to the wheat complex. All told, corn, soybeans and wheat contracts all carved out double-digit gains immediately following the report's release.

USDA's estimates for 2020 U.S. corn yields fell sharply lower, dropping from 175.8 bushels per acre in November all the way down to 172 bpa in today's report. Analysts were expecting a decrease but had offered an average trade guess of 175.3 bpa. That also lowers the agency's estimates for total production from 14.507 billion bushels down to 14.182 billion bushels. Despite the cuts, 2020 corn yields were still the fourth highest on record, and production was the fifth highest ever.

The agency's 2020/21 global wheat outlook calls for smaller supplies, improved consumption, higher exports, and lower stocks. Russian production is expected to move another 66 million bushels higher to reach a record 3.134 billion bushels. However, that boost is more than offset by falling production estimates for China, and in Argentina, where production is now predicted to fall to a five-year low. This excellent article with charts can be read completely by [clicking here](#) Grain prices soar on bullish USDA reports | Farm Progress

~ Article courtesy of Farm Futures

Recent research reveals that organizations have received alarmingly low scores in important sectors of cybersecurity

Corporate Cybersecurity Defenses Outgunned by Cybercriminals

By Drew Robb

The stats are well known about the increasing volume of cyber-attacks and the growing number of vulnerabilities. In the face of such an onslaught, you would expect organizations to be upping their game. But the opposite appears to be the case, according to research by Computer Economics, a division of Avasant Research.

Based on its IT Management Best practices 2020-2021 report, five IT security and risk management practices scored low in maturity. While other areas of IT scored higher in maturity, areas such as encryption, incident management, authentication, penetration testing, and security audit compliance all showed levels below 50%.

Remote work exacerbates security challenge

The massive increase in remote work because of the COVID-19 pandemic is making matters worse. "Cyberattacks have surged at least 85% since March," said Tom Dunlap, director of Avasant Research. "Data theft and ransomware are on the rise, aimed increasingly at the work-from-home crowd. Because of this new reality, it is shocking what our best practices survey revealed this year: Many security best practices are not applied consistently."

These results do not mean that encryption, authentication, and these other areas are absent in organizations. But a large percentage of respondents admitted that they do not practice these disciplines and technologies in a formal and consistent manner.

Encryption's maturity rating of 46%, for example, makes it clear that 54% lack the proper processes to be thorough enough about encrypting their data. Perhaps they encrypt some but not all sensitive data. Or they encrypt data at rest but not while it is moving. Whatever is the case, these organizations are unnecessarily at risk.

Similarly, security incident management scored only 44% in maturity, two-factor authentication was at 43%, penetration testing at 42%, and IT security compliance audits at 41%. This suggests that cybersecurity technology is running too far ahead of the ability of organizations to formalize these technologies within an organizational framework that effectively implements them.

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This is not a healthy situation in an environment where cybercriminals have become more aggressive. With many companies now operating virtually, IT organizations are struggling to align security with a work-from-home model. With enterprise boundaries dramatically extended, IT must redouble its efforts to safeguard user and corporate data in such a way as to not unnecessarily impede productivity.

Prioritization of process and people over technology, therefore, appears to be warranted, at least on the security front. Obviously, if there are gaping technology holes, they must be taken care of. But beyond that, organizations are advised to review their security posture to ensure they are taking proper advantage of the security technologies they have already implemented. This article was originally published on 12-22-2020

~ Courtesy of CIO/Insight

EPA Doubles Down on Prohibition of Emissions Defeat Devices

Marcia Gruver Doyle | January 12, 2021

Tampering on off- and on-road emissions control systems is illegal and there are hefty fines levied for violations, according to an **enforcement alert** - Aftermarket Defeat Devices and Tampering are Illegal and Undermine Vehicle Emissions Controls (epa.gov) issued by the **EPA** in December.

The agency also issued an updated **tampering policy** EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean (equipmentworld.com) - in November.

In the alert, EPA cites the \$2 million fine it levied against a Pennsylvania-based hauling service and a related \$2.3 million fine on a Texas-based successor.

In that case, six people were charged with conspiring to violate the Clean Air Act by using aftermarket defeat devices on about 30 heavy-duty trucks. The case also resulted in one defendant being sentenced in February 2020 to a six-month prison sentence.

EPA says it is also going after the manufacturers of defeat devices.

Last year a companies and individuals were fined \$850,000 for manufacturing and selling pickup truck products that altered engine performance and enable the removal of filters, catalyts, and other critical emissions controls.

This follows the 2019 \$1.1 million judgment against another company which EPA says sold least 5,549 aftermarket defeat devices for heavy-duty diesel engines.

Companies ignoring tampering bans

In the alert EPA says it remains concerned about companies "continuing to ignore the prohibitions against tampering in section 203(a)(3) the Clean Air Act and 40 C.F.R. §§ 1068.101(b)" and points out it has resolved more than 70 tampering cases in the past five years.

The Clean Air Act requires vehicle and engine manufacturers to demonstrate their products do not exceed applicable emission limits and prohibits anyone from manufacturing, selling, or installing any part or component that bypasses or defeats emissions controls.

These requirements mean that OEM-installed emissions-related parts and design elements must not be changed, including those in off-road equipment and engines.

Emission-related parts include on-board diagnostic systems; diagnostic trouble codes; sensors for oxygen, oxides of nitrogen, ammonia, particulate matter, urea quality, and exhaust gas temperature; diesel particulate filters and their sensors; exhaust gas recirculation systems; diesel oxidation catalyts; selective catalytic reduction systems; and NOx adsorber catalyts systems.

Also included are engine calibrations that affect engine combustion — such as fuel ignition or ignition timing, injection pattern and fuel injection pressure — and any other EPA emissions regulation compliant part, device, or element of design installed on certified vehicles or engines.

Manufacture, sell or install

In addition to the OEM requirements, the Clean Air Act makes it a violation for any person to manufacture or sell, or install any part or component intended to bypass, defeat, or render inoperative any regulated emissions-control component.

For off-road vehicles and engines, the EPA regulations are the same as for on-road vehicles.

In addition, several states have prohibitions on tampering and using aftermarket defeat devices.

As of January 13, 2020, the maximum civil penalty for manufacturing, selling, or installing defeat devices was \$4,819 per device. There may be significantly higher fines for a dealer or vehicle manufacturer who tampers with a vehicle, EPA says.

PA also notes installing a defeat device can void manufacturer warranties and cause a machine to not be covered by insurance. [CLICK HERE](#)

~ Article courtesy of Equipment World.com

U.S. Department of Labor Issues Final Independent Contractor Rule – ATA

Jan. 5th, 2021, the US Department of Labor's Wage and Hour Division (WHD) released a final rule to clarify how to determine whether a worker is an employee or an independent contractor (IC) under the Fair Labor Standards Act (FLSA), which ATA and many affiliates and members commented on in Oct. 2020. Notably, the final rule includes a specific example regarding safety requirements placed on owner-operators in the trucking industry not being relevant to control.

This rule is so close to the inauguration of the incoming Biden Administration that it is quite likely to be frozen and/or rescinded before going into effect. In the unlikely event that it is not frozen — and ultimately undone — the steps forward to positively defining what constitutes an Independent Contractor are helpful. Primarily for the trucking industry, this rule provides needed clarity for how to determine IC status placing the most weight on control and profit and loss factors and providing more definitive guidance for courts, employers and independent contractors overall.

A moderately detailed explanation of the full rule is available here, and future updates are expected as the new Congress and Administration are sworn in and organized.

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