Covid Call Notes – Week 7

Mike Oscar Update:

An extension was made to May 15th to decide if you wish to accept the PPP loan or not.

It was also recommended to establish a Company Board Resolution that clearly states the reason/s why your company considered and ultimately accepted the PPP loan.

On Friday, May 8, 2020, several organizations sent a thank you letter to House Ways and Means Chairman Neal and Senate Finance Chairman Grassley for their expressed opposition to the IRS’s PPP latest notice clarifying that any business expenses, which are normally tax deductible, but which are forgiven as part of a PPP loan become non-deductible. However, under the CARES Act, amounts forgiven by a PPP loan “shall be excluded from gross income.” By making normally-deductible expenses non-deductible to the extent that they are forgiven by a PPP loan effectively makes that part of the PPP loan taxable income. The IRS, and now Treasury Secretary Mnuchin, argue that the IRS notice simply prevents “double dipping.” Whether deducting expenses that had been part of a forgiven PPP loan is “double dipping” is a moot point. The statute very clearly made forgiven PPP loan proceeds non-taxable, and the IRS notice clearly is in conflict with the statute. Thankfully, House Ways and Means Chairman Neal and Senate Finance Chairman Grassley have expressed opposition to the IRS action, and legislation to reverse it is likely.

A task force has been established within the ESS Section regarding wastewater treatment facilities and the need for COVID testing. More information will follow by way of the section. This is an issue and an idea that is gaining a great deal of traction both here in the US as well as in other countries. To date, ACIL and its member laboratories have not played a significant role in addressing the issue and, especially, how the commercial testing community should be involved. It seems that the Academic and state & local government communities are driving the issue. What we would like to address is whether ACIL should get involved, and if so, what should ACIL’s involvement be?

On behalf of the Cannabis Working Group (CWG), ACIL has been lobbying for these labs to be included in the PPP and SBA disaster funding initiative, as they are currently excluded. On Wednesday, May 6, 2020, ACIL lobbied members of Congress in the House and Senate that represent our CWG Labs regarding our support for SBA PPP Loans to be made available to cannabis testing labs. Our message to those members of Congress was: “as you continue to draft an interim stimulus package, please allow our member laboratories, who perform cannabis testing and are only ancillary to its industry, access to Small Business Administration (SBA) programs. This current lack of access has caused our members significant financial hardship. On April 20, 2020, ACIL sent a letter to House and Senate Leadership regarding the issue.
As you know, the CARES Act barred “direct” and “indirect” cannabis businesses from obtaining loans and defined an indirect business as one that “derived any of its gross revenue for the previous year” from sales to direct cannabis companies. However, because our members also perform federal legal activities such as food, environmental, and hemp testing as well, they are needed to safeguard the American public from other public health crises. Many of these laboratories have polymerase chain reaction (PCR) instruments and the required biosafety levels to perform COVID-19 antibody and surface testing, making them critical future contributors to the nation’s testing capacity.

Additionally, ACIL supports H.R. 6602, the Emergency Cannabis Small Business Health and Safety Act introduced by Reps. Blumenauer (D-OR) and Perlmutter (D-CO). This legislation would allow legal cannabis businesses to access disaster relief loans and other programs available during the COVID-19 crisis, which mirrors our recently sent congressional leadership letter on the issue.

More Resources are update daily in the COVID area of the ACIL website and can be accessed from the homepage or at the link below:

https://www.acil.org/page/COVID-19_Coronavirus_Information_ACIL

**Discussion Comments & Questions:**

What is your 2nd Quarter outlook; do you see business declining, increasing or flat?"
Some labs stated they have not seen a drop off and others noted a 25-30% drop. The majority did not see things getting back to a new high.

Our tech business has dropped off as physical product development/testing isn’t happening now that they are all working from home.

Any idea what the timeline will be for another SBA EIDL appropriation?
There was no information regarding this and none is anticipated until late May or June.

This is very good guidance on PPP Loan Forgiveness: [http://leimbergservices.com/collection/rulebook1.pdf](http://leimbergservices.com/collection/rulebook1.pdf)

Do labs have written policies relating to mask wearing and other requirements in order to reopen?

California has a template for social distancing protocol that’s pretty detailed

We’re required to post, but maybe good for other policies as a starting point

Any labs that do work with Oil and Plastics have you seen a drop off in that work. CEM has had several orders from this industry put on long term hold as they are calling it.

Thank you

We're getting orders put on hold into June

Our petro business from both refineries and inspection labs has vanished. places are cutting back and laying off

For those paying hazard pay - as things start to unwind, when do you end paying hazard pay? When you have your full social distancing plan in place?

We never put it in place

Many labs did not offer hazard pay and the ones that did, are taking it month by month. It was noted that some folks didn’t opt to offer hazard pay, as nobody knows how long this will continue and whether it returns later on in the year. The concern was you are now setting a precedent and when does the hazard pay end? Additionally, there is a suggestion that your work environment is now a hazard.

Are masks a requirement or not?
We are not requiring masks

We require masks

We don’t require masks, but we recommend them and make them available. We may have to make them required later if the State requires it.

Once we acquired masks 10 days ago we mandated them. I am told that we will continue for this month but likely discontinued in June unless our region gets worse

We are supplying face shields for the chemists--they are easier to manage with safety glasses.

Is anyone providing stipends for employees who are working from home to help them set up a home-office? If so would be willing to share what you are doing?

We did not provide stipends but IT did provide a computer and any peripherals needed including VPN etc. to those who worked from home

Side note, we aren't doing this, but the tech companies are reimbursing internet bills for their engineers