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National Association of Federally-Insured Credit Unions

April 29, 2020

The Honorable Steven T. Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

RE: Paid Sick Leave and Family Medical Leave

Dear Secretary Mnuchin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in regard to the paid sick leave and paid family medical leave provisions of the *Families First Coronavirus Response Act* (FFCRA) and the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. In both the FFCRA and the CARES Act, financial institutions like credit unions are required to provide their employees with paid sick leave and family medical leave to help ease the financial difficulties many Americans are facing during the COVID-19 pandemic. Credit unions are providing this benefit to their valued employees and are working hard to provide the best financial products and services to their members during this difficult time. As such, we urge you to ensure that all credit unions will be able to receive a payroll tax credit for providing this benefit.

Earlier this week, NAFCU spoke with staff in the Treasury's Office of Financial Institutions Policy about a variety of challenges credit unions are facing right now, including uncertainty regarding whether they will be able to avail themselves of the payroll tax credit offered to organizations providing their members with paid leave under sections 7001 and 7003 of the FFCRA. Those sections provide an exception to the tax credit for "the Government of the United States, the government of any State or political subdivision thereof, or any agency or *instrumentality* of any of the foregoing" (emphasis added). Section 2301 of the CARES Act contains the same limitation. As you aware, for purposes of federal tax law, federal credit unions are considered "federal instrumentalities." As a result, NAFCU has been working with your staff and members of Congress since the FFCRA was signed into law to determine whether this language would prevent federal credit unions from receiving a payroll tax credit for providing paid sick leave and paid family leave to their employees.

It is NAFCU's understanding, based on engagement with members of Congress, that lawmakers did not intend to exclude federal credit unions from receiving this payroll tax credit. NAFCU now urges you to carry out the intent of Congress and interpret the provisions of these important COVID-19 relief laws accordingly. We believe that the intent and objective of this provision was not to exclude federal credit unions while permitting state-chartered credit unions to receive this

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payroll tax credit. To create such a bifurcation would arbitrarily disadvantage a large portion of the credit union industry that could otherwise leverage federal relief to better aid members and employees affected by the public health and economic crises. It would also create a divergent set of tax policies for institutions that otherwise receive the same practical treatment with respect to federal tax obligations. Additionally, such a bifurcation would appear to be contrary to the spirit of these paid leave provisions, which were designed to ensure that employees would get the COVID-19 related leave that they needed, while not jeopardizing the economic condition of their employers.

Thank you for your attention to this matter. We are confident that you will implement these laws as Congress intended and not prevent federal credit unions from obtaining this payroll tax credit for offering their employees paid leave. If I may be of assistance to you in any way, please do not hesitate to contact me directly or Ann Kossachev, NAFCU's Director of Regulatory Affairs, at (703) 842-2212 or akossachev@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dan Berger". The signature is stylized with a large initial "B" and a long, sweeping underline.

B. Dan Berger
President and CEO