

**Industry Specialists Discuss the Impact of COVID-19 on the Transportation Industry  
with Michael Rofman, Partner and Alisha Jernack, Senior Manager of Mazars USA LLP**

**April 27, 2020: Anthony Vizzoni Esq., Co-Transportation Practice Leader of Becker LLC, interviewed fellow Industry Partners Michel Rofman, Partner and Alisha Jernack, Senior Manager from the Transportation Group of Mazars USA LLP about the hot topics they are consulting with as to their Transportation clients about during the COVID-19 crisis.**

*Anthony: What are some of the key questions that you are fielding from your trucking and transportation clients about how the COVID-19 crisis has affected their businesses?*

**Michael:** How much will be my PPP loan forgiveness? Initially the American Trucking Association was advising that 1099 drivers would be included in the PPP loan, but we later learned that this is not the case. With SBA and US Treasury clarifications, 1099 drivers are excluded from PPP loan and forgiveness. As a result, this gives a huge competitive advantage to asset / employee driver business model versus an independent contractor business model. This will allow competing trucking companies with capacity to be more aggressive than others in coming weeks to take on and win more business and clients.

On the warehousing side the same exists with use of temporary work force versus having employees. Now is a good time to revisit the business model and determine whether this shift will refocus future employee misclassification issues, whereas the pursuit by the DOL is currently suspended as they're overwhelmed with COVID-19 increased unemployment volume.

**Alisha:** The first question is how I comply with the current rules and regulations, how do I ensure I am operating safely and protecting my workforce. All employers want to be sure their employees feel safe. Second comes the money. Everyone is asking what benefits are available and what does it mean for them. We saw the SBA first come out with the EIDL and we encouraged our clients to apply. Following that we saw the SBA Paychecks Protection Program funding and the question asked by all was "if I applied for the EIDL, can I also apply for the PPP?" There was a \$10,000 advance in the form of a grant under the EIDL and there were questions on how to account for that if also applying for the PPP. In between, was the FFCRA. Questions were asked on how to manage with employees going out under the FFCRA.

Employers must hold jobs, while also fill positions in the interim to continue to operate under business as usual. This was going to create a challenge. While amounts paid under the FFCRA are reimbursable in the form of tax credits, there is an added cost to finding temporary help and the question of how to fill this void and what is the impact of the void. There was a lot of uncertainty when this came out as to what the impact would be and how many individuals we would see go out under the FFCRA. Depending on the salary level, it may be appealing for employees to go out under the FFCRA.

*Continued.../*

## Five Questions About Surviving the COVID-19 Crisis with Michael Rofman, Partner and Alisha Jernack, Senior Manager from Mazars USA

Another challenge came with the increase in unemployment benefits. Again, depending on salary levels, it could pose challenging to retain and attract talent with heightened unemployment benefits for individuals. The question today is do we compensate those employees who have stood by us through the crisis in the form of hazard or bonus pay.

*Anthony: Alisha, there's multiple government programs available to provide financial assistance to companies, especially if the assistance helps employers retain employees during this critical time. For example, the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act") provides for several layers of financial assistance to employers, one of the more popular ones being the Paycheck Protection Program ("PPP") which you and Michael both noted in your initial responses and which has provided \$349 billion in funding to businesses. What have you been experiencing with your transportation clients as to funding under the PPP?*

**Alisha:** Luckily, most of our transportation clients have been able to maintain business operations as they are an essential business. While not exempt from the pandemic and its many impacts, they're able to continue to manage the day-to-day and maintain their workforce. In terms of the PPP, it was a no brainer for them to apply for funds. Most have maintained a relatively consistent headcount which is critical when it comes to forgiveness. There was certainly a lot of confusion and concern for those who use owner operators as part of their existing business model as they are not deemed employees and not an includable expense for determining payroll costs for the proceeds or the forgiveness component.

Many of our transportation clients operate as 3PL's and have different profit centers, while commonly owned and managed. It is common that we see separate entities for trucking operations, brokerage services and warehouse operations. Each entity generally has their own EIN and employees. In many instances, the entities act as co-borrowers on credit with their banks. We saw that this created confusion when companies went to apply for the PPP loans. Banks were initiating the application process and sending the applications to one of the entities that typically is the "borrower". However, the PPP application was to be completed for each entity that had payroll and a separate EIN. Many of our clients had to go back and ask for a second or third application and had to clarify with the bank if there were filing one or say three applications. I imagine this will also pose many questions when it comes to forgiveness. It is not uncommon to see "shared expenses" for overhead and other costs. Rent and utilities could be included and qualify as forgivable expenses.

*Anthony: Michael, even before the CARES Act went into effect, we saw the Families First Coronavirus Response Act (the "FFCRA") which imposed some strict conditions on employers requiring them to provide paid sick leave, paid family and medical leave and expansion of unemployment insurance related to COVID-19. Can you tell us a bit about what you are advising your clients regarding documentation or otherwise implementing controls regarding FFCRA to ensure that they can take advantage of the proper refundable tax credits?*

## Five Questions About Surviving the COVID-19 Crisis with Michael Rofman, Partner and Alisha Jernack, Senior Manager from Mazars USA

**Michael:** Employer will need to show how the employer has determined the amount of qualified sick and family leave wages paid to employees, including records of work, telework and qualified sick leave and qualified family leave and documentation to show how the employer determined the amount of qualified health plan expenses that the employer allocated to wages.

Employers will substantiate eligibility for sick/family leave with a written request for such leave from the employee which provides the employee's name; date or dates for which leave is requested; a statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; a statement that the employee is unable to work, including by means of telework, for such reason.

Quarantine order/self-quarantine advice, employee statement should include:

- Name of the governmental entity ordering quarantine or
- Name of the health care professional advising self-quarantine and
- If person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee

Other Substantiation, School Closing and Childcare, employee statements should include:

- Name and age of the child (or children) to be cared for,
- Name of the school that has closed or place of care that is unavailable, and
- Representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

**Anthony:** *Michael, certainly with truck drivers and mechanics the work at home mandates are not appropriate or even possible. But with respect to other back office employees and even dispatchers that may be working remotely from home, other than the typical logistics related issues that most of us are probably facing, is there any guidance that you are providing to your clients in this respect, particularly as to protecting sensitive company information from cyber-attacks?*

**Michael:** Mobilizing the workforce possess many security challenges and threats. Companies needed to act swiftly and mobilize, and we noticed a common theme occurring. Certain employees needed new laptops and setup of new credentials / user profiles. It is critical to have a separate user profiles and administrative rights because inadvertently the entire network can be exposed even though getting through a secure VPN portal to log into. It can be an easy way in for hackers to penetrate based off relaxed security protocols. Below is a recommendation what to consider for a quick start:

## Five Questions About Surviving the COVID-19 Crisis with Michael Rofman, Partner and Alisha Jernack, Senior Manager from Mazars USA

### Quick-start Guidance to Secure Remote Access

- Sign-up or enhance existing security monitoring to receive early detection and alerts on abnormal activity
- Ensuring Virtual Private Network (VPNs) and other remote access systems are fully patched
- Implementing multi-factor authentication (MFA)

Ensuring all machines have properly configured firewalls, as well as anti-malware and intrusion prevention software installed.

**Anthony:** *Alisha, what advice would you offer our trucking and transportation industry customers to support and assist them with handling the COVID-19 crisis and how can Mazars assist them in navigating the economic distractions arising from the COVID-19 crisis?*

**Alisha:** Business owners need to plan today for business and financial sustainability. They should begin by assessing the current impact of the pandemic. Business owners need to be honest with themselves and create realistic financial projections that consider the mid to longer term pandemic impacts on sales and cash flow. Cost reduction plans should be considered for direct and indirect spend. This could lead to a whole new business model. Companies may see how they are able to operate with significantly less costs and the question will then become are they able to sustain operations long-term under this operating model. This could lead to higher margins and increased returns long-term.

It is critical for business owners to find themselves the right professionals who can act as their partners to help them navigate through these unprecedented times. Having the right relationships can make the difference of survival. Balance sheets need to be analyzed to determine if they have the strength to survive a period of losses. Business owners should be open minded and considering plans to diversify their current service offerings.

Is there an immediate need that they can help to fulfill and are they able to pivot? Know your customers and your suppliers. We are seeing further commoditization of core services and companies need to find ways to better add value to differentiate themselves and their services. Have our customers or suppliers diversified and if so, how can we leverage? We know that warehouse operations are impacted by workers being out because of COVID-19. Perhaps companies should consider an analysis for more drop trailers or other alternatives to avoid detention.

## Five Questions About Surviving the COVID-19 Crisis with Michael Rofman, Partner and Alisha Jernack, Senior Manager from Mazars USA

### About the Authors:



**About Michael Rofman:** Michael Rofman is a Partner and leader of the Mazars USA Transportation and Logistics group. He has over 15 years' experience in public accounting. Michael's expertise includes cash flow forecasting and assessment of internal controls while helping clients drive strategy forward through process improvement focusing on profit margins, increase competitiveness, and increase adoption of change across organizations.



**About Alisha Jernack:** Alisha Jernack is a Senior Manager in the Transportation and Logistics group at Mazars USA. She has over 10 years' experience specializing in financial reporting, tax and advisory services to family-owned and owner-operated businesses.



**About Anthony J. Vizzoni:** Anthony is co-chair of the firm's Transportation Group and a member of the Firm. He primarily focuses his practice on corporate transactional matters, complex financing transactions and commercial real estate. Mr. Vizzoni has over 30 years' experience in the practice of law and the area of financing.

### About Becker

Becker LLC is a premier mid-market firm with offices in New York, New Jersey, Philadelphia and California. The firm provides the complete spectrum of legal services from litigation, transactional, labor and employment, and bankruptcy law counseling, to intellectual property, real estate and construction law related advice. Our size and regional footprint allows us to provide sophisticated services in a manner not only focused on results, but also on our client's return on their investment.

For more information, call (973) 422-1100, visit us on the web: <https://www.becker.legal/>