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CARES Act Rolls Out Relief for Nonprofits

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a \$2 trillion fiscal stimulus bill that is intended to help with a variety of issues resulting from the COVID-19 pandemic caused by the novel coronavirus. The Act contains several provisions that may provide relief to nonprofit organizations. Some of the items that directly impact nonprofits include new loan programs, grants, unemployment tax relief, charitable giving deductions, and delayed payroll tax payment.

Section 1102: Paycheck Protection Program

The CARES Act allows nonprofit organizations with 500 or fewer employees to borrow the lesser of 2.5 times their average total monthly expenses—including payroll, mortgage payments, rent payments, and payments on any other debt—over the past year (as of the date of the loan) or \$10 million. This is subject to seasonal adjustments for some organizations.

This loan can be used for:

- Payroll support (e.g., sick, medical, or family leave, and costs related to maintaining group health during leave);
- Employee salaries;
- Mortgage payments;
- Rent;
- Utilities; and
- Previously incurred debt obligations.

These loans are eligible for forgiveness subject to the following provisions:

- Amount forgiven is limited to principal amount (not interest) for the covered period—the eight-week period beginning at the origination of the loan—for costs including:
 - Maintaining payroll;
 - Mortgage payments (not including principal);
 - Rent;
 - Utilities; and
 - Debt obligations.
- Forgiveness is subject to be reduced for reductions in the organization’s number of employees and wages as defined in the Act.

Loan rates and provisions are subject to the Small Business Act as amended by provisions contained in the CARES Act and should be reviewed in detail.

Section 1110: Emergency Economic Injury Disaster Loans (EIDLs) and Grants

The CARES Act allows for private nonprofit organizations to be eligible for a maximum loan amount of \$2 million subject to the provisions of the Small Business Act with certain waivers to personal guarantees and length-in-business requirements as defined in the Act. The Act also appears to waive tax return requirements at application and allows for alternative methods for determining an applicant’s ability to repay the loan.

This section also provides for EIDL applicants to request up to \$10,000 of the loan they applied for in the form of a grant subject to certain certifications and limitations on uses of funds. This grant is not repayable even if the EIDL application is denied.

Section 2103: Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

The CARES Act includes a provision that allows the Secretary of Labor to issue clarifying guidance on the interpretation of state unemployment compensation laws. It appears to provide federal funding for relief for states to partially reimburse self-funded nonprofits that owe unemployment reimbursement for laid-off employees.

Section 2204: Modifications for Charitable Giving & Section 2205: Modification on Charitable Contributions During 2020

The CARES Act includes a provision that allows eligible individuals to make up to a \$300 cash charitable contribution for an above-the-line deduction. Eligible individuals in this case are defined as any individual who does not elect to itemize deductions. There is also a temporary suspension of the adjusted gross income (AGI) limitations for individuals and an increased limit for corporations.

Section 2302: Delayed Payment of Employer Payroll Taxes

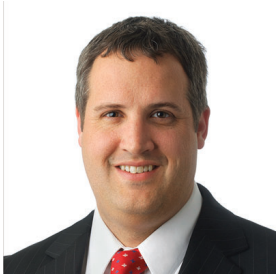
The CARES Act includes a provision that allows organizations to delay payment of applicable employment taxes for payroll tax deferral periods applying to wages paid after March 12, 2020, and before January 1, 2021, subject to the provisions of the Act.

Section 4003: Emergency Relief and Taxpayer Protections

The CARES Act includes a provision that assists mid-sized businesses, including nonprofit organizations with between 500 and 10,000 employees. This provision provides for loans with no payments in the first six months and annualized interest rates not higher than 2 percent subject to the provisions of the Act. As demonstrated above, the CARES Act includes many provisions designed to offset the financial

burden created by the COVID-19 virus for nonprofit organizations. These provisions have many detailed nuances not covered here, some of which require further clarification from various regulators. Nonprofit organizations should seek advice from their accountants, tax advisors, and legal counsel about their specific application and eligibility.

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