

Update on the CARES Act 2020

RSM US LLC

The CARES Act (“Coronavirus Aid, Relief, and Economic Security Act”) is moving toward passage by the House on Friday, March 27, 2020.

The following summary of certain CARES Act provisions that would apply to tax exempt organizations is based on the Senate version of the bill as passed by the Senate on March 25, 2020. Stay tuned for updated information after the bill passes the House, as there could be changes before the legislation is finalized and is signed into law by the President.

Based on what we know at this time, here are the highlights of some of the provisions in the CARES Act that may affect your exempt organization:

Loans – “Paycheck Protection Program”

- Small Business Administration (SBA) loans made to qualifying organizations between February 15 and June 30, 2020
- Organization must not have more than 500 total full-time and part-time employees
- Maximum loan amount is the lesser of 2.5 times the average monthly “payroll costs” during the one-year period ending on the date the loan was made OR \$10 million
- “Payroll costs” do not include compensation in excess of \$100,000, payroll taxes, employees outside the US, and qualified sick leave or family medical leave payments for which a credit is allowed (more on the credit later)
- Maximum maturity is ten years
- Interest rate is not to exceed 4%
- Payment deferral for at least 6 months but not longer than one year is available
- Loan forgiveness may apply if the loan is used for certain expenses, effectively turning the loan into a grant
- Other emergency loans for which tax-exempt organizations may qualify include economic injury disaster loans and the industry stabilization loans.

Employee Retention Credit

- One-year only credit against employer’s 6.2% share of Social Security payroll taxes for any business forced to suspend or close its operations, but continues to pay employees
- The operation of the business was fully or partially suspended due to orders from an appropriate government authority
- Business remained open, but gross receipts for that quarter were less than 50% of what they were for the same quarter in 2019
- The business will receive a refundable credit against its 6.2% share of Social Security payroll taxes equal to 50% of the “qualified wages” paid to EACH employee for that quarter
- If more than 100 employees during 2019, the qualified wages are limited ONLY to those wages that were paid during shut down
- If less than 100 employees for 2019, the qualified wages are eligible to employers who remained in business but experienced sharp decline mentioned above
- ***The qualified wages for EACH employee for ALL quarters may not exceed \$10,000***
- If an employer takes out a “payroll protection loan”, no employee retention credit will be available

Delay of Payment of Employer Payroll Tax

- The employer's share of the 6.2% Social Security tax that would be due from the date of enactment through 12/31/2020, to be paid on 12/31/2021 (50%) and 12/31/2022 (50%)
- An employer that received loan forgiveness of a "Paycheck Protection Program" loan (see above) would not be eligible for this delay of payment provision.

Unemployment Insurance

- Self-insured organizations will be reimbursed for 50% of the costs of benefits provided to employees who are laid off
- Jobless workers will be provided with an additional \$600 per week on top of their state unemployment insurance benefits for four months.
- These provisions expand the universe of individuals who are eligible for unemployment benefits.

Paid Leave

- The CARES Act modifies the paid leave provisions in the recently passed Families First Coronavirus Response Act.
- The maximum amounts employers must pay for two weeks of sick pay is capped at \$511 per day.
- An employer would be required to pay a maximum of \$200 per day for each employee under the ten-week childcare leave.

Direct Aid to Individuals

- Payments of up to \$1,200 to each individual with an additional \$500 payment for every child will be made within weeks.
- There are income limitations, including phase outs, with complete phase out at \$99,000 for single taxpayers, \$146,500 for head of household filers with one child, and \$198,000 for joint filers.

Charitable Contribution Deduction for Individuals

- Partial above the line charitable contribution deduction of \$300 for taxpayers who do not itemize their deductions.
- Cash contributions only.
- Does not apply to contributions to supporting organizations and Donor Advised Funds.
- Contributions must be made in calendar year 2020.

Charitable Contributions Limits Suspended or Expanded

- The 60% of adjusted gross income limit on the charitable contribution deduction for individuals is suspended for contributions made in cash during 2020.
- The limit on the charitable contribution deduction for corporations would be increased from 10 percent of taxable income to 25 percent.
- Food inventory contribution limit would be increased from 15 percent to 25 percent of taxable income.
- Does not apply to contributions to supporting organizations and Donor Advised Funds.