

The Impact of the CARES Act on Nonprofits

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Congress has passed, and on March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act (the “Act”). There are several provisions of the Act that will provide assistance to nonprofits. Below is a brief discussion of such provisions.

Availability of Loans

The Act provides for a new Emergency Small Business Loan Program under the Small Business Act. Under this program, nonprofits (and for-profit businesses) with less than 500 employees are eligible for loans up to \$10,000,000 at low interest rates. The portion of the loan used within the first 8 weeks after loan origination for certain payroll payments and payments of mortgage interest, lease or rent payments, and utilities payments incurred before February 15, 2020 will be forgiven. The entire amount of such a loan is eligible for forgiveness if amounts are spent on eligible expenses, subject to some reductions.

For medium and large nonprofits (500 to 10,000 employees) other loan support will be available. These loans will be available at interest rates of less than 2%, but will not accrue interest or require payments for the first 6 months after the loan is made. Economic Injury Disaster Loans are also available to nonprofits of any size, for amounts up to \$2,000,000 with an interest rate of 2.75%. The Act would eliminate the creditworthiness requirements for these loans and nonprofits with fewer than 500 employees will be able to receive a payment of \$10,000 within three days of application.

Employment Tax Relief

The Act provides for assistance to nonprofits (and for-profit business) to pay their employees and maintain adequate cash. The Act provides for an employee retention credit which allows eligible employers (which include nonprofits) a credit against employment taxes equal to 50% of the qualified wages paid to employees between March 12, 2020 and January 2, 2021 that are not working because the nonprofit has partially or completely ceased operations. The credit is limited to \$10,000 in the aggregate per employee. Additionally, the Act defers payroll taxes due from the period

beginning on the date the Act is enacted and ending December 31, 2020. The payroll taxes will be due on December 31, 2021 and December 31, 2022.

Changes to Charitable Contribution Deductions

The Act allows for an above-the-line deduction of up to \$300 for charitable contributions made by individuals, making the deduction available to taxpayers taking the standard deduction. Additionally, the Act provides that for the 2020 tax year, individuals can claim an unlimited itemized deduction for charitable contributions. Normally, the deduction is limited to 50% of an individual's adjusted gross income for contributions of cash to a public charity. For corporations making charitable contributions during 2020, the deduction available will be limited to 25% of the corporation's adjusted gross income, rather than 10%. Contributions of food inventory will be limited to 25% of adjusted gross income, rather than 15%. These measures will incentivize charitable contributions during this taxable year.

Other Provisions

The Act also provides for additional funding for hospitals, schools, and social support programs. For instance, the Act provides support for healthcare providers to address supply shortages and diagnostic testing. The Act also has provisions that address the allocation of necessary resources for schools and address the needs of low-income children. Grants from the Small Business Administration may also be available to minority chambers of commerce for purposes of education and training. As a result of these provisions, some nonprofits that operate in certain sectors may be eligible for additional relief.

A Final Thought

As the pandemic continues to evolve, nonprofits can and should look to other financing options to support their operations and to provide the services needed for their communities. For shorter term funding, nonprofits can look to community development financial institutions (CDFIs), many of which operate as community loan funds. For longer term needs, nonprofits can explore financing related to the new markets tax credit program or 501(c)(3) bonds. Tribal nonprofits can continue to explore bank financing guaranteed by the Bureau of Indian Affairs or the United States Department of Agriculture.

The Act is a step towards assisting for-profit, nonprofit and individuals facing economic challenges during this crisis.

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