The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides over $2 trillion of economic stimulus and contains several items that benefit the nonprofit sector. There are significant appropriations provided to benefit nonprofit subsectors, such as hospitals, education, the arts, and transit systems. The Act includes loan relief, several payroll-related benefits, and a charitable contribution deduction incentive for individual and corporate donors. Note that participating in certain loan programs may exclude participation in certain payroll-related benefits.

**Loan Programs**

**Paycheck Protection Program:** Funding is provided under a new Small Business Administration 7(a) loan guarantee program called the Paycheck Protection Program. This provides funding for special emergency loans of up to $10 million to eligible
nonprofits and small businesses. Eligible nonprofits include Section 501(c)(3) organizations and veterans organizations under Section 501(c)(19) of the Internal Revenue Code. The funds may be used to cover limited operating costs, including payroll, rent, and utilities as well as certain debt service expenses. However, the loans cannot be used for payroll costs related to wages already covered by the Families First Coronavirus Response Act or to cover the portion of compensation of individual employees or independent contractors in excess of an annual salary of $100,000. Eligible organizations must employ not more than the greater of 500 employees or the number of employees specified by the Small Business Administration for the industry in which the entity operates. A loan forgiveness provision is included with eligibility based upon maintaining employment and wage levels in place on February 15th from that date through June 30th. Further guidance from the Small Business Administration is expected.

**Economic Injury Disaster Loans (EIDL):** This $10 billion program administered by the Small Business Administration provides private nonprofits and other applicants that meet the eligibility requirements under Section 7(b)(2) of the Small Business Act with loans of up to $2,000,000 and emergency advances of up to $10,000 within three days of application for the loan. Eligible organizations must have no more than 500 employees. The annual interest rate for nonprofit organizations is 2.75%. Creditworthiness requirements for this program are waived. Rulemaking authority lies with the Small Business Administration.

**Economic Stabilization Loans:** This loan program focuses on at-risk industries to keep them solvent. Eligible businesses are defined as “a United States business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under the Act.” Nonprofits are eligible under this section with the qualifying language “to the extent practicable.” Organizations with between 500 and 10,000 employees are eligible for these loans. Although there is no loan forgiveness provision, interest rates would be no higher than 2% and interest would not accrue nor payments be required for the first six months. Nonprofits accepting these loans must retain at least 90% of their staff at full compensation.

**Payroll-Related Relief**

**Employee Retention Payroll Tax Credit:** A payroll tax credit of 50% of “qualified wages” paid by eligible employers to certain employees during the COVID-19 crisis is available. Eligible employers include certain tax-exempt organizations carrying on a trade or business during calendar year 2020 whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or other group meetings. Organizations with a drop in gross receipts of at least 50% in the first quarter 2020 compared to the first quarter of 2019 are also eligible for the credit. Qualified wages include health benefits under employer-sponsored health plans.

For employers with more than 100 employees employed during 2019, qualified wages for the credit are wages that the employer pays employees who are not providing services due to the suspension of business or a drop in gross receipts. For employers with 100 or fewer employees employed during 2019, all wages paid qualify for the credit. However, qualified wages do not include wages taken into
account under the Families First Coronavirus Response Act for paid sick leave and paid family leave.

The credit is capped at $5,000 per eligible employee which is 50% of the first $10,000 in qualified wages per eligible employee. The availability of the credit will continue each quarter until the organization’s gross receipts exceed 80% of the same quarter in 2019. For a tax-exempt organization, the entity’s whole operations must be taken into account when determining the decline in revenues. Employers receiving emergency small business interruption loans under the CARES Act and governmental employers are not eligible for these credits.

**Partial Benefits Reimbursement:** The federal government will reimburse states for half of the costs to provide unemployment benefits to laid-off employees of self-funded nonprofits. The intent is that the states would then reimburse the nonprofit employers.

**Expanded Unemployment Insurance:** Coverage is provided for workers who are unable to work because of the Coronavirus outbreak. This includes workers who are furloughed, gig workers and independent contractors. Weekly payments of $600 are provided to workers for up to four months. This amount is on top of what state unemployment programs pay and applies to nonprofit organizations and governmental entities.

**Reduced New Paid Leave Mandate:** The amount required to be paid for such family leave under the Families First Coronavirus Response Act (enacted March 19) is reduced to the amounts covered by the refundable payroll tax credit (i.e., $511 per day for sick leave and $200 per day for family leave).

**Delayed Payment of Employer Payroll Taxes:** The Act allows certain employers and self-employed individuals to defer paying the employer portion of Social Security payroll taxes incurred from the Act’s enactment through the end of 2020. The deferred taxes must be paid over a two-year period, with half of the amount due by December 31, 2021, and the other half by December 31, 2022. The delayed payment benefit is not available to employers receiving emergency small business interruption loans under the CARES Act.

**Charitable Contribution Incentive:** The Act allows an incentive for individual donors by providing a permanent charitable deduction for qualified contributions up to $300 for non-itemizers. “Qualified contributions” for purposes of the non-itemizer incentive do not include contributions to supporting organizations or to donor-advised fund accounts. The Act also eliminates the existing cap of 60% of adjusted gross income on annual contributions for those who itemize. This will allow itemizers to deduct up to 100% of their adjusted gross income.

With respect to corporate donors, the Act raises the corporate annual limit on charitable contributions from 10% to 25% of taxable income. The cap on food donations from corporations increases from 15% to 25% of taxable income.