Nonprofit Alert: CARES Act Provides Relief for Nonprofits

March 30, 2020

The recently enacted "Coronavirus Aid, Relief, and Economic Security Act," known as the "CARES Act," addresses many topics, including direct payments to millions of Americans, delay of employer payroll taxes, disaster relief grant funding, provision of needed medical supplies, and relief to airlines and financial institutions. In addition to the items that are getting much public attention, the Act includes some provisions of special interest to nonprofits.

1. Unemployment Relief

The Act, along with actions at the state level, have greatly expanded unemployment benefits for workers whose jobs are impacted by the COVID pandemic. As nonprofits know, however, the cost of unemployment benefits are ultimately paid by employers. 501(c)(3) organizations have the option of electing to be self-insured/"reimbursing employers" that only pay into the unemployment program if an employee makes a claim. As their workers are affected by the pandemic and unemployment claims are hitting record levels, these unemployment payments could hit nonprofits particularly hard.

Section 2103 of the CARES Act is intended to address this by providing funding to states to use to reimburse nonprofits for half of the costs that they incur through December 31, 2020 to pay unemployment benefits. To be fully effective, it will likely require an implementing executive order or legislation at the state level to get these payments into nonprofits' hands.

2. Small Business Administration Loans - Paycheck Protection Program

Section 1102 of the CARES Act provides funding for emergency loans to small businesses and certain 501 (c)(3) organizations and Tribal businesses for uses such as eligible payroll costs, health insurance, mortgage interest, rent, and utilities. Lenders may forgive the principal of the loans made pursuant to this program. The maximum amount of the forgiveness is generally equal to the costs of certain payroll expenses, mortgage interest, rent, and utilities obligations incurred during the eight-week period beginning on the date of the origination of the loan. The forgiveness amount is proportionally reduced if the borrower reduces its number of employees or their salaries between February 15 and June 30, 2020. The reduction in the forgiveness amount will not apply to an employer that has already laid off workers or reduced their salaries if the employer promptly reverses those actions.

To be eligible, a nonprofit must employ fewer than 500 part-time and full-time employees — unless the Small Business Administration (the SBA) sets a higher threshold for the relevant industry. As a goal of the legislation is to "keep workers paid," employers with higher average payroll costs for the past year will generally be able to receive larger loans under this program. The maximum loan amount is $10,000,000.

This new loan program is in addition to SBA's Disaster Loan Assistance available to certain nonprofits (and small businesses). The Disaster Loan program enables loans to private nonprofits of up to $2 million at favorable terms and interest rates. More information is available from Lathrop GPM here and from the SBA here.

3. Incentives for Charitable Giving

The Act also includes two provisions to encourage more charitable giving in 2020.

First, it creates a universal charitable deduction. Typically, taxpayers may only claim a Federal charitable contribution deduction if they itemize their deductions. Because the 2017 Tax Cuts and Jobs Act significantly increased the standard deduction, most taxpayers do not itemize. Section 2204 of the CARES Act allows taxpayers who do not itemize to claim a deduction of up to $300 for contributions of cash (and not other property) made to charities. The contributions cannot be to a type of tax-exempt organization known as "supporting organizations" or used to establish or maintain a donor advised fund.

In addition, the CARES Act temporarily lifts limits on the deduction of large cash gifts. Typically, an individual taxpayer may only offset 60% of the taxpayer's adjusted gross income by making charitable contributions of cash to a public charity. The CARES Act suspends that limit for cash contributions made during 2020. Similarly, for corporate donors, the CARES Act increases the limit on the proportion of a corporation's taxable income that can be offset with charitable contributions from 10 to 25 percent. Again, these special rules do not apply to contributions to supporting organizations or donor advised funds.

4. Grant Funding

Of course, the primary thrust of the CARES Act is to inject substantial funding into the economy to mitigate the impact of the public health crisis. This funding takes a variety of forms, including disaster relief grants and substantial funding to numerous federal agencies, which, in turn, are to use the funds to make grants and loans in specific sectors. The details of these additional grant and loan opportunities will emerge in the coming weeks, as agencies start developing and announcing their respective programs.

5. Normal 990 and 990-T Deadlines Generally Remain in Place

In a separate development from the CARES Act, the IRS extended the payment and filing deadlines for many tax returns ordinarily due on April 15th. However, the May 15 deadline that applies to nonprofits with a calendar year tax year has not been changed.

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For more information, please contact Lathrop GPM's tax-exempt and nonprofit organizations team.