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Page Title: Nonprofit's Guide to Stimulus Legislation | [INSERT RELATED SERVICE] | [INSERT FIRM NAME]

Meta Description: [NAME OF FIRM] provides nonprofits with a detailed overview of provisions within the COVID-19 federal stimulus package.

Headline: The Nonprofit's Guide to Federal COVID-19 Stimulus Legislation

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The U.S. government has approved far-reaching legislation to provide relief to American families, businesses and nonprofit organizations. Two significant bills are the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief and Economic Security Act (CARES Act).

FFCRA created new obligations for employers and addresses food nutrition security, unemployment benefits, paid leave, free health testing and other support for individuals affected by COVID-19. The historic \$2 trillion CARES Act injects cash into the economy to help individuals, states, businesses and nonprofits that are suffering as a result of the pandemic.

This blog summarizes specific provisions that may be useful to nonprofit organizations as they attempt to navigate the current landscape.

Unemployment

To stem the tide of unemployment claims, FFCRA created \$1 billion in emergency grants to states for unemployment benefits. The Secretary of Labor is assisting states in setting up work-sharing programs. These programs would allow employers to reduce hours instead of laying off employees, while the employees could claim partial unemployment benefits for wage losses.

The CARES Act allots \$250 billion to states to expand unemployment benefits. Self-employed and independent contractors, like Uber drivers and other gig workers, can receive unemployment during this public health emergency. The CARES Act adds a \$600/week payment increase in unemployment benefits through the end of July, and for those needing it, an additional 13 weeks of benefits beyond what states typically allow. This expansion in unemployment benefits is set to expire at the end of 2020.

Cash Payments

Direct payments of up to \$1,200 per adult, \$2,400 for married couples and \$500 for each qualifying child form the cornerstone of the CARES Act for all U.S. residents meeting certain income ceilings. Amounts begin to phase out with adjusted gross income (AGI) over \$75,000 per person and for joint filers over \$150,000, becoming fully phased out at AGI of \$99,000 for individuals and \$198,000 for joint filers. These payments apply even for those who have no income, as well as for those whose income comes entirely from non-taxable means-tested benefit programs such as Supplemental Security Income (SSI) benefits. Most Americans will not be required to take action to receive a rebate check, as the IRS will use taxpayers' 2019 tax return contact information or their 2018 returns.

Food and Nutrition Services

With schools' meals programs closed and food banks strained to meet increased demand, FFCRA allocates \$1 billion in nutritious foods to various in-need classes served by nonprofits including low-income pregnant women, mothers with young children, senior citizens and food banks. The provisions also bolster free and reduced lunch assistance to households with children who would normally receive free or reduced-price meals at their schools. The USDA will receive \$100 million for nutrition assistance grants to Puerto Rico, American Samoa and the Commonwealth of the Northern Mariana Islands. Additionally, 25 million home-delivered and pre-packaged meals will be provided to low-income seniors who depend on the Senior Nutrition program.

Paid Leave

Both bills include several provisions that address sickness, family and medical leave. CARES introduces a tax credit for certain employers that are subject to closure due to COVID-19. The credit is applicable against employment taxes for each calendar quarter equal to 50% of qualified wages for each employee per quarter. The amount of wages taken into account for all calendar quarters is limited to \$10,000. The employer must take into account any credits received from FFCRA in calculating eligible wages.

An eligible employer is one that (a) was carrying on a trade or business during calendar year 2020; and (b) with respect to any calendar quarter for which (i) operation is fully or partially suspended due to orders from an appropriate government authority limiting commerce, travel or group meeting due to COVID-19 or (ii) in which there has been a significant decline in gross receipts. Beginning in the first calendar quarter after December 31, 2019, a decline in gross receipts occurs if the entity has less than 50% gross receipts in a quarter compared to the same quarter in the prior year, and ending with the calendar quarter for which gross receipts are greater than 80% of the same calendar quarter in the prior year. *For nonprofit organizations, the trade or business and COVID-19-related limitations are considered to apply to all such entities.*

FFCRA provides that employers with fewer than 500 employees (and all public sector employers) are required to provide paid sick leave of two weeks for full-time employees due to an isolation or quarantine order or advisory who are experiencing symptoms, or caring for a family member or a child whose school or care provider is closed due to public emergency. These employers are required to provide up to 12 weeks of job-protected leave to employees to care for a child whose school or care provider is closed. Employers would be required to pay two-thirds of the wages of these employees, not to exceed \$200 per day and \$10,000 in aggregate. *Because the majority of the nonprofit sector comprises organizations with fewer than 500 workers, these provisions are a major benefit to their employees impacted by COVID-19.*

The Labor Department is authorized to exclude certain healthcare providers and small businesses with fewer than 50 employees. In order to fund these benefits, employers may claim a 100% refundable payroll tax credit on wages associated with paid sick and medical leave as required in the bill, as well as expenditures associated with additional health benefit contributions. Any additional wages paid due to the leave requirement will not be subject to the employer portion of the payroll tax.

Because nonprofit organizations generally do not pay income tax, they are able to apply this credit against their payroll taxes. The law has built in a waiver of penalties in anticipation of the payroll tax credit for not making proper payroll tax deposits.

Employment Taxes

A provision in the CARES Act allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government for their employees. Employers generally are responsible for paying a 6.2% Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

Charitable Deduction Modification

The CARES Act modifies the rules for charitable deductions and increases the ceiling limitation on deductions for charitable contributions for 2020 as follows: 1) for individuals who itemize, the 50% AGI limitation is suspended for 2020; 2) for corporations, the 10% net income limit is increased to 25%; and 3) the limitation on deductions for contributions of food inventory is increased from 15% to 25%. The Act also creates an above-the-line deduction of up to \$300 in cash contributions to nonprofit organizations this year. This means donors may benefit from the deduction whether they itemize or not. Such a provision may pave the way for a more permanent above-the-line deduction, a change for which the charitable sector has been lobbying in recent years.

Nonprofits and Net Operating Loss

Net operating loss (NOL) limitation rules have been eased to allow losses from 2018, 2019 and 2020 to be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. Such changes were critically important when they were enacted during the 2008 recession and they are expected to be equally as important during this crisis. It appears the NOL provisions will apply to nonprofit corporations reporting unrelated business income tax (UBIT). Nonprofits with large NOL carryforwards should capitalize on this provision by amending prior Form 990-Ts to reclaim taxes paid in those years.

Small Business Loans

The CARES Act provides relief for small businesses with up to \$300 billion for loan guarantees and subsidies via the Small Business Administration (SBA). Businesses and nonprofits can apply for fee-free loans of up to \$10 million to help in paying payroll, employee salaries, mortgages, rent and certain debt obligations.

Under the CARES Act, the loan period for this program begins on February 15, 2020 and ends on December 31, 2020. The program covers businesses with fewer than 500 employees (unless the covered industry's SBA size standard allows more than 500 employees). Please note: the legislation excludes from eligibility nonprofit organizations that receive Medicaid reimbursements.

Eligible borrowers are required to make good faith certification that they have been affected by COVID-19 and will use the funds to retain workers and maintain payroll and other debt obligations. These loans are potentially forgivable if the organization spends the funds during an eight-week period after the origination date on the following items: 1) payroll costs; 2) interest payment on any mortgage incurred prior to February 15, 2020; 3) payment of rent on any lease in force prior to February 15, 2020; and 4) payment on any utility for which service began prior to February 15, 2020. Loan forgiveness will be reduced for certain employee reductions such as layoffs or wage reductions. The CARES Act authorizes \$10 million for grants to minority business centers for the purpose of providing counseling, training and education on federal resources and business response to COVID-19 for small businesses.

Estimated Payments

Corporations can defer payment of estimated tax payments due after the date of enactment to October 15, 2020, with no cap. This would apply to nonprofits with estimated payments for UBIT. It is important to monitor whether a nonprofit's state has automatic conformity to federal tax law changes to determine if the payment deferral applies at the state level as well.

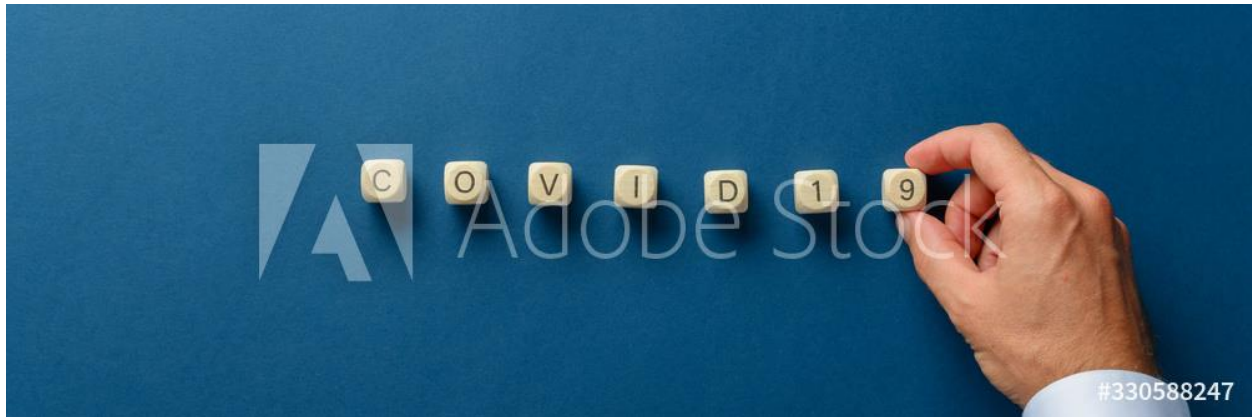
Filing Deadlines

Federal filing and payment deadlines for individuals and corporations have been extended, with no apparent relief for nonprofits in sight at the time of this article. The National Association of College and University Business Officers has written a letter to the IRS Commissioner and Treasury Secretary Mnuchin urging them to grant a 90-day filing and payment extension for exempt organizations in accordance with their fiscal year filing dates and extension dates. Coupled with the complications created by the coronavirus pandemic, the nonprofit sector is still waiting for section 512(a)(6) guidance (re: UBIT silos), and final rules have yet to be promulgated on the excise taxes on compensation and net investment income. At this time, the filing deadlines for Form 990s and tax payments have not changed. Nonprofit organizations should continue to monitor the situation for potential changes to federal filing deadlines for the nonprofit sector.

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