

## How Nonprofits Can Benefit From The CARES Act – Summary of Provisions

On March 27, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act benefits nonprofit organizations. The below summary contains highlights of several applicable provisions.

### **Paycheck Protection Program:**

The Act provides \$349 billion for paycheck protection loans, a new category of Section 7(a) SBA loans.

Under the Paycheck Protection Program, 501(c)(3) and 501(c)(19) nonprofit organizations with 500 or fewer employees, which includes full-time and part-time employees, will be eligible for SBA loans of up to \$10 million. Specifically, organizations are eligible to receive the lesser of \$10 million or 2.5 times the average total monthly payroll costs from the prior year. Loans must be made within the covered period of February 15, 2020 – June 30, 2020.

No personal guarantee or collateral will be required in securing a loan.

Loan proceeds can be used for: payroll costs; health benefits; employee salaries; mortgage interest; rent; interest on other debt incurred prior to February 15.

Loans cannot be used for compensation of individual employees, independent contractors, or sole proprietors in excess of an annual salary of \$100,000; compensation of employees with a principal place of residence outside the United States; or leave wages already covered by the Families First Coronavirus Response Act.

Payments of principal, interest, and fees will be deferred for at least 6 months, but not more than 1 year, and interest rates are capped at 1% with maturity of two years.

### **Loan Forgiveness Under Paycheck Protection Program:**

Under Section 1106 of the CARES Act, 501(c)(3) and 501(c)(19) nonprofit organizations are eligible for loan forgiveness for 8 weeks of payroll costs and rent payments, utility payments, or mortgage interest payments.

The amount of loan forgiveness may be reduced if the organization reduces the number of employees as compared to the prior year, or if the employer reduces the pay of any employee by more than 25% as of the last calendar quarter. Organizations that rehire workers previously laid off as a result of the COVID-19 crisis will not be penalized for having a reduced payroll for the beginning of the time period.

### **Emergency EIDL Grants**

Entities organized under section 501(c)(3) or 501(c)(19) may apply for an EIDL grant in addition to a loan under the Paycheck Protection Program. For nonprofit organizations seeking an immediate influx of funds, borrowers may receive a \$10,000 emergency advance within three days after applying for an EIDL grant. If the application is denied, the applicant is not required to repay the \$10,000 advance however, the advance will reduce the amount forgiven under a 7(a) paycheck protection loan if one is received. Emergency advance funds can be used for paid sick leave due to COVID-19, payroll, rent, mortgages or other debt, increased costs of materials.

### **Self-Funded Nonprofits and Unemployment:**

Under Section 2103, self-funded nonprofits may be reimbursed for half of the costs of benefits provided to their laid-off employees.

### **Charitable Giving Incentives for Donors to 501(c)(3) Nonprofit Organizations**

Under Section 2204 of the Act, taxpayers will be able to claim up to \$300 for qualified contributions made to a charity this year as a deduction from their gross income if they take the standard deduction on their 2020 tax return. This deduction will reduce the amount of taxable income to a donor. The percentage of taxpayers itemizing deductions fell by more than half since the passage of the 2017 Tax Cuts and Jobs Act, impacting annual giving for charities. This measure will provide an incentive for donors.

Section 2205 of the CARES Act also increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the cap for cash contributions, previously limited to sixty percent (60%) of a person's adjusted gross income in a year, now has no limitation. For corporations, the ten percent (10%) limitation is increased to twenty-five percent (25%) of taxable income. Organizations should take this opportunity to inform donors about these changes.

### **Employee Retention Payroll Tax Credits**

Section 2301 of the CARES Act creates a refundable payroll tax credit of up to \$5,000 for each employee on the payroll when certain conditions are met. To be eligible, an entity must have carried on a trade or business during calendar year 2020, and satisfy one of the following two tests:

- Have business operations fully or partially suspended during the calendar quarter because of orders from a government authority due to COVID-19; or,
- Have a reduction in revenue of at least 50 percent in the first quarter of 2020 compared to the first quarter of 2019.

For nonprofit organizations, the entity's whole operations must be taken into account when determining the decline in revenues.

Organizations receiving emergency SBA Paycheck Protection Program 7(a) loans would not be eligible for these tax credits.

### **Education Institutions:**

Provides certain institutions of higher education with increased flexibility by including various waivers and leniencies, such as, (i) waiver of requirement that certain institutions match federal funding and allow certain institutions to transfer unexpended allotments (Section 3503); (ii) allowing certain institutions to use specific federal grant allocations for emergency financial aid for students (Section 3504); (iii) waiver with respect to amount of assistance to be returned by certain institutions in the event certain recipients of federal assistance withdraw due to the qualifying emergency (Section 3508); (iv) various leniencies regarding authorized uses and other modifications for grants (Section 3518).

### **Economic Stabilization Fund:**

As part of the \$500 billion authorized under Section 4003 for business loans and guarantees supported by the Federal Reserve, the Treasury is directed to endeavor to implement a special 13(3) facility through the Federal Reserve to provide financing for banks and other lenders that make loans to nonprofit organizations and businesses between 500 and 10,000 employees.

The interest rate on such loans shall not exceed 2% and for first six months or longer in discretion of the Secretary shall be interest only. Nonprofits accepting the mid-size business loans must retain at least 90 percent of their staff at full compensation and benefits until September 30.

Partridge Snow & Hahn's [Charitable & Nonprofit Organizations Group](#) is ready to answer questions and to provide advice on how to address general and specific risks posed by the coronavirus.

**Date Created**

March 31, 2020