



INDEPENDENT
SECTOR

Summary of the 2020 Year-End COVID-19 Relief, Spending, and Tax Legislation

The following are highlights and selected provisions of relevance to the nonprofit sector based on H.R. 133 as filed on December 21, 2020.

Charitable Giving Incentives

The bill includes a one-year extension of the \$300 above-the-line-deduction, which was established in the CARES Act and set to expire at the end of 2020. It also increases the amount for 2021 that married couples filing jointly can deduct for charitable contributions, from \$300 to \$600. A new penalty of 50% would apply to overstatements on a tax return of the new above-the-line deduction.

Extends through the end of 2021 the increased AGI limits on deductible charitable contributions for individuals who itemize and net income limits for donations from corporate taxpayers.

Paycheck Protection Program

This bill includes \$284 billion for additional loans from the Paycheck Protection Program (PPP) and extends PPP through March 31, 2021. Changes to PPP include:

- Provides a second PPP forgivable loan (up to \$2 million) for small businesses and nonprofits with 300 or fewer employees that have exhausted their initial PPP loan and that can demonstrate a loss of 25% of gross receipts (based on gross receipts under section 6033 for nonprofits) in any quarter during 2020 when compared to the same quarter in 2019. Earlier versions of the text included additional requirements to meet an alternative size standard, which could have been particularly problematic for nonprofits and was ultimately eliminated.
- Creates a dedicated \$15 billion set-aside for lending through community financial institutions, including Community Development Financial Institutions and Minority Depository Institutions to increase access for minority-owned and other underserved small businesses and nonprofits;
- Creates a set-aside for very small businesses or nonprofits with 10 or fewer employees and for organizations located in distressed areas;
- Expands PPP eligibility for more critical access hospitals, local newspapers and TV and radio broadcasters, housing cooperatives, and 501(c)(6) nonprofits, including tourism promotion organizations and local chambers of commerce;
- Allows for small businesses in the restaurant and hospitality industries to receive larger awards of 3.5 times average total monthly payroll, rather than 2.5 times;
- Adds PPE expenses, other workplace and worker protection costs, and supplier costs as eligible and forgivable expenses;
- Increases the ability for PPP borrowers who did not apply for their maximum eligible loan to reapply or to adjust current loans to meet their new maximum based on current calculations;
- Clarifies that churches and religious organizations are eligible for initial PPP and second draw loans;
- Simplifies the forgiveness process for loans of \$150,000 and less, allowing for a self-certification process, and;
- Repeals the requirement of deducting an EIDL Advance from the PPP forgiveness amount.

Shuttered Venue Operator Grants

The legislation authorizes \$15 billion for the SBA to make grants to eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators, or talent representatives who demonstrate a 25 percent reduction in revenues.

The legislation:

- Allows an initial grant of up to \$10 million dollars to support specified expenses such as payroll costs, rent, utilities, and PPE for an eligible person or entity and a supplemental grant that is equal to 50 percent of the initial grant;
- Sets aside \$2 billion for 60 days for eligible entities that employ not more than 50 full-time employees;
- Creates initial priority periods of 14 days for entities that have faced 90 percent and then 70 percent revenue loss. Reserves at least 20 percent of available funds for non-priority applicants, and;
- Prohibits recipients of these grants from receiving a PPP second draw loan.

EIDL Grant Program

The bill includes \$20 billion for EIDL Advance grants. Small businesses and nonprofits in low-income communities are eligible to receive \$10,000 grants. Any small businesses or nonprofit in low-income communities that received an EIDL Advance previously are also eligible to receive the full \$10,000 if their award was less in the first round of grants.

Extension and Expansion of the Employee Retention Tax Credit (ERTC)

The bill extends and expands the refundable Employee Retention Tax Credit (ERTC), which was established in the CARES Act to provide employers a tax credit against payroll taxes for retaining workers. The changes include:

- Extends the tax credit, through July 1, 2021;
- Increases the credit rate, from 50% to 70%;
- Raises the limit on per-employee creditable wages from \$10,000 for the year, to \$10,000 for each quarter;
- Expands eligibility for the credit by reducing the required year-over-year decline in gross receipts from 50% to 20%;
- Modifies the threshold for treatment as a 'large employer' by increasing the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees, and;
- Clarifies the definition of gross receipts for nonprofit employers based on section 6033 and Form 990 definitions.

Extension of Paid Leave Credits

The bill extends the refundable payroll tax credits for paid sick and family leave that were established in the Families First Coronavirus Response Act, through March 31, 2021.

Extension of Unemployment Insurance

The bill would extend several support programs for unemployed workers. It:

- Extends through March 14, 2021 a provision in the CARES Act to provide federal support to cover 50% of the cost of unemployment benefits for employees of state and local governments and nonprofit organizations. Nonprofit advocates continue to request an increase in federal support to cover 100% of the cost.
- Provides enhanced unemployment insurance benefits through the Federal Pandemic Unemployment Compensation (FPUC) program of an additional \$300 per week to supplement all state and federal unemployment benefits, starting after December 26, 2020 and ending March 14, 2021;

- Extends the Pandemic Unemployment Assistance (PUA) program, which provides continued unemployment assistance to the self-employed, freelancers, gig workers, part-time workers and other individuals in non-traditional employment. It also increases the number of weeks of PUA benefits an individual may claim, from 39 to 50.
- Extends the Pandemic Emergency Unemployment Compensation (PEUC) program, providing additional weeks of federally-funded benefits to workers who have exhausted their regular state unemployment benefits and increases the weeks of PEUC benefits an individual may claim, from 13 to 24, and;
- Provides full federal financing of state Shared Work programs, allowing employers to avoid layoffs during the downturn by connecting their employees who are working reduced hours with partial unemployment compensation, through March 14, 2021.

Coronavirus Relief Fund

Extends the availability by one year (until Dec. 31, 2021) for funds provided to states and localities by the Coronavirus Relief Fund in the CARES Act. Does not include additional relief funds requested by many states, localities, and nonprofits.

Economic Impact Payments

Economic Impact Payments of \$600 for individuals making up to \$75,000 per year and \$1,200 for couples making up to \$150,000 per year, as well as a \$600 payment for each child dependent. Eligibility is expanded to mixed-status families where one spouse has a Social Security Number (SSN). These families are eligible for the economic impact payment amount for each family member with an SSN and can also retroactively claim their CARES Act payment when filing 2020 taxes.

Civic and Community Infrastructure Priorities

Broadband Internet

Provides \$7 billion in total for broadband internet programs, including \$3.2 billion to establish the Emergency Broadband Benefit Program at the FCC, under which eligible households may receive a discount of up to \$50, or up to \$75 on Tribal lands, off the cost of internet service and a subsidy for low-cost devices such as computers and tablets. Internet service providers that provide the discounted service or devices to customers can receive a reimbursement from the FCC for such costs.

Establishes an Office of Minority Broadband Initiatives at the National Telecommunications and Information Administration (NTIA) to focus on broadband access and adoption, and establishes a \$285 million pilot grant program for institutions, businesses, and nonprofit organizations.

The bill also includes \$250 million dollars in telehealth funding, \$65 million for broadband mapping, \$1 billion for broadband connectivity on tribal lands, \$300 million to fund broadband in rural areas, and \$2 billion to small telecommunication providers to upgrade equipment security.

U.S. Postal Service

Converts a \$10 billion loan authorized in the CARES Act into direct funding with no repayment required. The Postal Service can use these funds to maintain payrolls intact, cover operational costs, provide personal protective equipment for postal workers, and many other COVID-19 related costs.

Child Care

Provides \$10 billion in emergency funds for the child care sector through the Child Care Development Block Grant program. These funds can be used to provide child care assistance to families and to help child care providers cover their increased operating costs during the pandemic. The bill also includes \$250 million for Head Start providers to ensure they can continue to safely serve low-income children and families throughout the pandemic.

Federal Transit Administration

Provides \$14 billion for Transit Infrastructure Grants, to support rail, bus, paratransit and more. This funding is intended to prevent deep cuts that could disproportionately impact people and communities that rely on transit.

Disaster Related Relief

The bill provides an employee retention credit for employers affected by qualified disasters. The provision provides a tax credit for 40 percent of wages (up to \$6,000 per employee) paid by a disaster-affected employer to a qualified employee. The credit applies to wages paid without regard to whether services associated with those wages were performed. Certain tax-exempt entities are provided the option to claim the credit against payroll taxes.

In addition, the bill temporarily suspends limitations on the deduction for charitable contributions associated with qualified disaster relief.

Other Funding Provisions

Higher Education Emergency Relief Fund – provides \$22.7 billion, including \$20.2 billion for public and private nonprofit institutions and \$1.7 billion for Historically Black Colleges and Universities, Tribal Colleges and Universities, Hispanic Serving Institutions, and certain other institutions.

Supplemental Nutrition Assistance Program (SNAP) – increases the monthly SNAP benefit level by 15% and provides \$100 million for state administrative costs through fiscal year 2021.

Emergency Food Assistance Program – invests \$400 million to help food banks meet increased demand in their communities.