

The Nonprofit Edge

October 2020

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How Can We Help?

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Paycheck Protection Program Forgiveness & CARES Credits

By Samantha Jordan, CPA

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law by President Trump on March 27th, 2020. The law established several programs that could benefit non-profit organizations affected by the COVID-19 pandemic. Discussed in further detail below are a few of the programs the CARES Act created.

The payroll tax deferral allows a deferral of payment of the employer's portion of social security taxes and certain railroad retirement taxes incurred from March 27th, 2020 through December 31st, 2020. The deferred amounts can then be paid in two installments which would be due on December 31st, 2021 and December 31st, 2022. Form 941 was revised beginning with the second quarter of 2020 to report these deferred taxes. If an employer takes advantage of another program established under the CARES Act, the Paycheck Protection Program (discussed below), an employer can only defer the employer's portion of the allowable taxes until the loan forgiveness decision has been made by the lender/Small Business Administration.

Another payroll tax-related program established by the CARES Act is the Employee Retention Credit. Employers are eligible for this credit if there was a governmental order related to the pandemic that required the organization to partially or fully suspend operations; or if the employer experienced a reduction of greater than 50% in quarterly receipts, as measured by a year-over-year basis. Employers with less than 100 full-time employees are eligible to use all employees' wages while employers with more than 100 full-time employees can only use wages from employees who are furloughed or face

reduced hours as a result of the employer's closure or economic hardship. The credit is for 50% of eligible employees' wages paid after March 12th, 2020 and before January 1st, 2021 up to \$10,000 per employee. The maximum credit per eligible employee would be \$5,000. The credit can be claimed on Form 941 on a quarterly basis, although advance payments of the credit can be claimed using Form 7200 between quarterly filings if the organization cannot reduce their employment tax deposits to fully account for the credit. This credit is not allowed if an organization takes advantage of the Paycheck Protection Program, but this credit can be used in conjunction with the employer payroll tax deferral.

The Paycheck Protection Program (PPP), established by the CARES Act, is an expansion of the Small Business Administration's 7(a) loan program. Non-profits with 500 or fewer employees were eligible to apply for a PPP loan. Since the deadline to apply for loans under this program has passed, organizations have begun to shift their attention to the forgiveness application piece of the program. Full forgiveness of the loan and accrued interest is available if the organization spent the funds on eligible costs which include payroll, health insurance, interest on business mortgages, business rents, and business utilities. The mortgage, lease agreement, and utility services related to the eligible costs need to have been established or in use before February 15th, 2020. The organization has 24 weeks from the loan origination date (the covered period) to spend the loan proceeds with no more than 40% of the forgiveness amount being attributable to non-payroll costs. If the **(Continued on Page 3)**

The Importance of Having an Updated Gifting Policy

By Neha Saluja

It is difficult to turn down gifts, which is why it is important for not-for-profits (NFPs) to have an updated gift acceptance policy. The three main reasons for having an updated policy are that it reduces uncertainty, develops better relationships, and addresses legal obligations.

First, an unusual gift contribution can place the Board of Directors of a NFP organization in a difficult situation: accepting the contribution may not align with the mission statement of the organization, it may be difficult to maintain the contribution, or there may be hidden costs. Having a current gift acceptance policy will reduce this uncertainty because the organization will have guidelines or a framework to refer to on what can or cannot be accepted. This transparency will also reduce the board discussion on determining whether the contribution should be accepted, resulting in efficiency. Further, this will aid in maintaining consistency from client-to-client.

Second, having a current gift acceptance policy also allows NFP organizations to develop better relationships with donors. Refusing to accept a contribution and citing the reason verbally can create a hostile situation for the donor. It can put the NFP organization in bad light and can be the cause of lower donation revenue in the future. However, having an updated gift acceptance policy supports the NFP's decision to not accept the contribution. The donor will be unlikely to interpret the unacceptance of their donation personally or think that the verbal reason was thought of spontaneously. It also makes the situation less awkward for the staff

member communicating the decision to the donor.

Third, accepting non-cash contributions can have tax obligations. Organizations need to be aware of this in order to determine what gifts should be accepted. Two examples that illustrate the importance are real property and virtual currency.

Accepting real property, such as buildings or land, may be subject to property tax as well as holding and disposition costs. The organization may not have sufficient resources to pay these additional expenses or the tax liability. Thus, it is important to be mindful of these rules and reflect the organization's right to review all noncash contributions in the policy.

Another example is virtual currency, which is also known as cryptocurrency. Examples of this currency include Bitcoin, Litecoin, Ether, and Syscoin. Since there is limited Internal Revenue Service guidance on reporting and taxing cryptocurrency, it is even more vital to have an updated policy which reflects the organization's position on cryptocurrency contributions. For example, virtual currency is extremely volatile. Owning a small amount of virtual currency that loses its value will probably not have a significant impact compared to owning a sizeable amount, but even the change in value with small ownership could still be the make or break for NFPs that are on the edge financially. Furthermore, virtual currency is not very liquid so organizations cannot sell it quickly when resources are needed immediately. On the other hand,

accepting virtual currency donations can open doors to generous donations in the future. Given these reasons, it is important for organizations to assess how much risk can be endured and then decide whether accepting cryptocurrency contributions, or other unusual contributions, is appropriate.

In conclusion, it is crucial for NFPs to have a current gift acceptance policy and being aware of the obligations that come with accepting noncash contributions. Schedule M is filed with Form 990 when noncash contributions are received. Part I, Line 31 of this schedule asks if the organization has a "gift acceptance policy that requires the review of any nonstandard contributions." Although a NFP is not legally required to have a policy in place, having one and checking the box "yes" is certainly an appropriate thing to do.

If you need assistance drafting a gift acceptance policy or have additional questions, please contact your personal Sciarabba Walker contact or email info@swcllp.com.

Virtual Currency in the Non-Profit Sector

By David Johnson, CPA, and Michelle Flinn, CPA

More and more charities are being approached regarding donations of virtual currency. Bitcoin, Litecoin, Ether, and Syscoin are all examples of virtual currency, also known as cryptocurrency. As a first step, charities are encouraged to review their gift acceptance policies and evaluate these donations. Generally, organizations would be encouraged to set-up automatic conversions to cash due to the volatility of these assets. Having said that, the conversion process is not necessarily simple or risk-free, so it is important for organizations to assess their risk tolerance, expertise, and capacity before they decide whether or not to accept cryptocurrency contributions. If they choose to accept virtual currency donations the organization should make sure to have an updated gifting policy which reflects their position on cryptocurrency contributions.

A charitable organization that receives a donation in the form of virtual currency should treat it in a similar manner as a donation of property. Most of the rules governing other property donations also apply to donations of virtual currency, which means once the donation is made it will be reported along with other non-cash contributions on Form 990, Part VIII and the associated Schedule M, for non-cash donations exceeding \$25,000 (if applicable).

The basis of the virtual currency will be determined when the organization sells or disposes of the virtual currency in exchange for real currency, as it is treated the same as donated property and is dependent on whether there is a gain or loss at the time of the sale. The sale/exchange of the currency should be reported on Form 990, Part VIII, Line 7 in the year it is sold or disposed of. For reporting purposes, the organization will need to classify the sale as long-term capital gain/loss or short-term. Generally, the organization's holding period includes the donor's holding period. Additionally, if the organization has received multiple donations of units of one kind of virtual currency, they should be able to separately identify the units in order to choose which units are sold/exchanged. If the organization does not identify the specific units of virtual currency, then the units are considered sold/exchanged on a first-in, first-out basis.



The organization should provide the donor with a contemporaneous written acknowledgment if the donor is claiming a deduction of \$250 or more. If the donor is claiming a deduction of more than \$5,000, the organization is usually required to sign the donor's Form 8283. If the currency has been held for more than one year, the donor's deduction is generally equal to the Fair Market Value (FMV) at the time of donation. If the currency has been held for one year or less, then the deduction is the lesser of the donor's basis or the FMV at the time of donation. If the charity disposes of the virtual currency within three years after the date they originally received the property, they must file Form 8282, Donee Information Return, and provide a copy of the form to the original donor.

borrower has the option to elect an 8-week covered period instead. If there is a reduction in the number of employees during the covered period or any reductions in salary or hourly rate of an employee in excess of 25%, the forgiveness amount may be limited. There are several safe harbors in the forgiveness applications that can mitigate these limitations, if met.

Borrowers of PPP loans have ten months from the end of their covered period to apply for forgiveness. Borrowers can apply for forgiveness prior to their covered periods ending if all the proceeds were spent and all reductions have been accounted for the entire covered period. If the borrower received an Economic Injury Disaster Loan advance, the PPP loan forgiveness amount will be reduced by the amount of the advance received when the payment is made to the lender by the SBA. Any amounts not forgiven will have an interest rate of 1% and a repayment period of 2-5 years, depending on the date the loan was made and any agreements between the lender and borrower.

For additional information on implications of the CARES Act and other COVID-19 relief measures, please reach out to your personal Sciarabba Walker contact or email us at info@swcllp.com.

Paycheck Protection Program Forgiveness & CARES Credits

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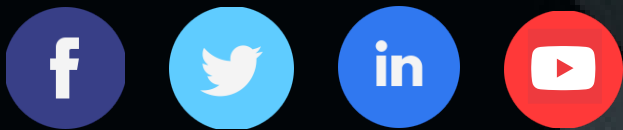
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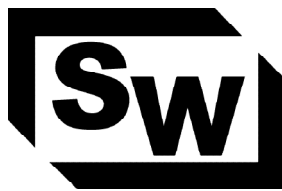
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Will You Be Applying For Paycheck Protection Program Loan Forgiveness?



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RETURN SERVICE REQUESTED

SciArabba Walker is monitoring the most recent guidance on all CARES Act programs, including the Paycheck Protection Program (PPP).

If you received a PPP loan and will soon be applying for forgiveness, contact the CARES Team at SciArabba Walker for peace of mind about your forgiveness application today.

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