

2021 Tax Update

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Agenda

- Employee Retention Credit
- New PPP Loan Provisions
- New PPP Loan Forgiveness Provisions
- Pandemic Unemployment Assistance
- Federal Pandemic Unemployment Assistance
- FFCRA Paid Leave
- CAA Charitable Giving Provisions

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Agenda

- CAA Miscellaneous Changes
- CAA Flexible Spending Account Changes
- Final UBIT Siloing Regulations
- Changes to the 2020 Form 990-T
- Form 990, Schedule A and PPP Loan Forgiveness
- Health Care Sharing Ministries
- Deferral of Employee Payroll Tax

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Agenda

- Form 1098-T and HEERF Payments
- Section 4960 Regulations
- Section 4968 Regulations
- HEERF Payments

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Employee Retention Credit

- 2021 Consolidated Appropriations Act (CAA) extended the CARES Act program through the first two quarters of 2021; the American Rescue Plan Act (ARPA) extended it to the end of 2021
- Some changes only apply to 2021; major retroactive change for those who received PPP loans in 2020
- [IRS FAQ website](#)
 - FAQs do not yet reflect impact of the CAA

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Employee Retention Credit (continued)

- [Notice 2021-20](#) (for 2020 quarters) and [Notice 2021-23](#) (for Q1 and Q2 2021)
- Minister's wages are **not** qualified wages
 - This is a credit to payroll taxes. Churches do not contribute or collect FICA on **ministerial wages**.
- Student employees' wages which are otherwise exempt from FICA **are** included

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Employee Retention Credit (continued)

- PPP Loan Recipients: Organizations that received PPP loan proceeds in 2020 may now claim the credit for 2020 quarters
- **May not** claim the credit for wages that were paid for with PPP loan proceeds and forgiven
- **May** claim the credit for wages that were not paid with PPP loan proceeds and forgiven
- **May** claim the credit retroactively (awaiting guidance — also, speak to your payroll provider)

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Employee Retention Credit (continued)

- What does “fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority... due to COVID-19” mean?
- Three questions here:
 1. Was there an “appropriate” governmental order?
 2. Was there a “full or partial suspension” of services?
 3. Was the suspension caused by the order?
- See the [FAQ site](#) for helpful examples

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Employee Retention Credit (continued)

2020	2021
Qualified wages (up to \$10,000) paid after March 12, 2020 and before January 1, 2021	Qualified wages (up to \$10,000) paid after March 12, 2020 and before July 1, 2021
Had a full or partial suspension of services caused by a COVID-19 governmental order during the period, <i>or</i> 50% decline in gross receipts from the same quarter in 2019	Beginning January 1, 2021: Had a full or partial suspension of services caused by a COVID-19 governmental order during the period, <i>or</i> 20% decline in gross receipts from the same quarter in 2019
100 or fewer full-time employees: eligible for the credit for every employee, regardless of whether they were able to work or not during the period	500 or fewer full-time employees: eligible for the credit for every employee, regardless of whether they were able to work or not during the period
100 or more full-time employees: eligible for the credit for only those employees who were not able to provide services during the period	500 or more full-time employees: eligible for the credit for only those employees who were not able to provide services during the period
Credit is 50% of qualified wages, with an annual cap of \$5,000	Credit is 70% of qualified wages, with a <u>quarterly</u> cap of \$7,000

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Employee Retention Credit (continued)

2020	2021
Credit is 50% of qualified wages, with an annual cap of \$5,000	Credit is 70% of qualified wages, with a quarterly cap of \$7,000
<i>e.g. \$10,000 in qualified wages * 50% for the entirety of 2020</i>	<i>e.g. \$10,000 in qualified wages * 70% in Q1 \$10,000 in qualified wages * 70% in Q2</i>
Total Credit for 2020: \$5,000 for entire year	Total Credit for 2021: \$14,000 for Q1 and Q2 of 2021 <ul style="list-style-type: none"> • Can claim the 2021 credit even if received the maximum credit for the employee in 2020

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New PPP Loan Provisions

- There are now effectively two PPP loan programs
 - First Draw and Second Draw
 - Different eligibility
 - Different limits
 - Permissible use of funds is the same for each program
 - Forgivable expenses are the same for each
 - Application period is open until **May 31, 2021**

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New PPP Loan Provisions (continued)

- Second Draw PPP Loans are only available to prior recipients of a First Draw PPP Loan
 - Headcount threshold is lowered to 300
 - For some types of entities there may be a different threshold
 - Must satisfy a gross receipts reduction test
 - For organizations in existence for all of 2019
 - At least a 25% reduction in gross receipts between any 2020 calendar quarter and its comparable 2019 quarter
 - May use a full year comparison
 - Organizations that began operations in 2019 have different rules

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New PPP Loan Provisions (continued)

- Second Draw PPP Loans (continued)
 - Must satisfy a gross receipts reduction test (continued)
 - Nonprofits, including churches, are told that gross receipts are gross receipts within the meaning of Internal Revenue Code section 6033
 - This section ignores cost of goods sold, cost basis, rental expenses, fundraising expenses
 - Maximum loan amount is the lesser of:
 - 2.5 times average monthly payroll, and
 - \$2,000,000
 - Special 3.5 factor applies to restaurants and hotels

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New PPP Loan Provisions (continued)

- New First Draw PPP Loans look just like the original program
 - For those who didn't receive a PPP loan during 2020
 - Headcount threshold is 500
 - **BREAKING NEWS:** Effective March 11, 2021, this is now 500 employees **per location**
 - Maximum loan amount is the lesser of:
 - 2.5 times average monthly payroll, and
 - \$10,000,000
 - Use 2019 or 2020 payroll data for avg monthly payroll calc
 - There is no revenue reduction requirement

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New PPP Loan Forgiveness Provisions

- The CARES Act provision that required PPP loan forgiveness to be reduced by the amount of any "EIDL advance" was repealed retroactively
 - Organizations that were denied full forgiveness because of an EIDL advance should expect the SBA to automatically remit this amount to their lender, thereby paying off the loan
 - Amounts paid on the loan balance related to an EIDL advance should be refunded if this was the sole reason the loan was not forgiven in full

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New PPP Loan Forgiveness Provisions (continued)

- The PPP Loan Forgiveness “Covered Period” is now flexible (within boundaries)
 - The PPP Loan Forgiveness “Covered Period”:
 - Begins on the date the loan is disbursed, and
 - Ends on a date selected by the borrower that is no sooner than the last day of the 8th week following loan disbursement and no later than the last day of the 24th week
 - No more “alternative payroll covered period”
 - This flexible period applies to both First Draw and Second Draw PPP Loans, including 2020 First Draw PPP Loans

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New PPP Loan Forgiveness Provisions (continued)

- Payroll costs now include group life, dental, vision, and disability insurance
 - In addition, payroll costs include:
 - Salary, wage, commission, or similar compensation
 - Includes minister’s housing allowance, [PPP Loan FAQ 32](#)
 - Cash tips or equivalent
 - Payment for vacation, parental, family, medical, or sick leave
 - Allowance for dismissal or separation
 - Group health insurance, including self-insurance costs
 - Payment of any retirement benefit
 - State or local tax assessed on the compensation of employees

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New PPP Loan Forgiveness Provisions (continued)

- In addition to payroll costs, mortgage interest, rent, and utilities, forgivable expenses now include:
 - Covered operations expenditures
 - Covered property damage costs
 - Covered supplier costs
 - Covered worker protection expenditures

However, these items may not be included on a 2020 First Draw PPP Loan application if the SBA has already remitted a loan forgiveness payment to the lender.

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New PPP Loan Forgiveness Provisions (continued)

- For PPP loans of \$50,000 or less, borrowers are not required to reduce their loan forgiveness amount for reductions in full-time employee headcount or salary/wage reductions
 - Use Loan Forgiveness Application Form 3508S

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New PPP Loan Forgiveness Provisions (continued)

- For PPP loans of \$150,000 or less, loan forgiveness is streamlined
 - The Loan Forgiveness Application, Form 3508S, is only one page
 - No documentation is required to be submitted
 - Document retention requirement is reduced from 6 years to 4 years for employment records and 3 years for all other records
 - One exception: PPP Second Draw Loan recipients must submit evidence of gross revenue reduction
 - Only required to list number of employees at the start and the end and **estimate** the amount spent on payroll costs

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New PPP Loan Forgiveness Provisions (continued)

- Loan Necessity Questionnaire
 - Borrowers of \$2 million or more will likely receive a [Loan Necessity Questionnaire \(Form 3510\)](#) from their lender
 - [PPP Loan FAQ 53](#) discusses the PPP Loan Necessity Questionnaire
 - The questionnaire is used by the SBA to assess a borrower's certification that "[c]urrent economic uncertainty" made the "loan request necessary to support the ongoing operations" of the borrower

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New PPP Loan Forgiveness Provisions (continued)

- Loan Necessity Questionnaire (continued)
 - Receipt of the questionnaire does not mean the SBA is challenging the borrower's loan application certification
 - The loan necessity questionnaire must be completed and returned within 10 days of being received

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Pandemic Unemployment Assistance

- CARES Act provision that provided unemployment benefits to many individuals who are otherwise ineligible for benefits
 - This includes church employees
- ARPA extends eligibility for this federal benefit to September 6, 2021 (previous end date was March 14, 2021)
 - The time period to receive the benefit is now extended from an original grant of 39 weeks to 79 weeks
 - An applicant must now provide proof of employment or self-employment, or the planned commencement of employment or self-employment

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Federal Pandemic Unemployment Compensation

- This was a CARES Act benefit that added \$600 to otherwise available unemployment benefit
- The Consolidated Appropriations Act (CAA) extended this benefit from December 26, 2020 (the date the prior benefit expired) through March 14, 2021
 - ARPA has now extended this benefit to September 6, 2021
 - The benefit was kept at \$300, but tax waiver provided for \$10,200 of UI benefits

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Families First Coronavirus Response Act Paid Leave

- The FFCRA created two forms of paid leave:
 - Emergency Paid Sick Leave (80 hours)
 - Emergency Family and Medical Leave
 - Originally paid over 10 weeks following a 2-week unpaid leave period
 - ARPA eliminated the 2-week unpaid leave period, creating a 12-week benefit
- The Consolidated Appropriations Act **permits** employers to continue this benefit through March 31, 2021
- ARPA extended the permission through September 30, 2021

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FFCRA Paid Leave

- ARPA expands category 3 of EPSLA to include COVID-19 testing and/or vaccination
- Also provides for an additional 80 hours of paid sick leave
- EFMLA also expanded to include all six categories under the EPSLA

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FFCRA Paid Leave (continued)

- Unpaid period of emergency family leave was eliminated
- Expressly includes wages paid to students who are otherwise exempt from FICA taxes *and* ministers in the definition of qualified wages
 - [FAQ 7](#) and [FAQ 8](#)
- This change is retroactive to the effective date of the original FFCRA (April 1, 2020)

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CAA Charitable Giving Provisions

- The CAA extended several CARES Act charitable contribution provisions
 - For **cash** contributions made by individuals during 2020 and 2021 to a public charity that is not a donor advised fund or supporting organization, the 60% of adjusted gross income limit is suspended
 - Accordingly, such cash contributions are deductible to the extent of 100% of adjusted gross income
 - For **cash** contributions made by a corporation during 2020, the limitation on deductions is increased from 10% to 25%

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CAA Charitable Giving Provisions (continued)

- The CAA extended several CARES Act charitable contribution provisions (continued)
 - Individuals who do not itemize their contributions may claim up to a \$300 deduction in computing adjusted gross income (for 2021 this is utilized to compute taxable income)
 - For 2020, this deduction limit is “per return” such that married individuals filing a joint return are limited to a single \$300 deduction
 - For 2021, this deduction limit is per taxpayer such that married individuals filing a joint return can claim up to \$600

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CAA Miscellaneous Changes

- The AGI floor for deducting medical expenses is restored to 7.5%
 - This change is now permanent
- The TCJA's Paid Family and Medical Leave Credit is extended to December 31, 2025
 - This is different than the CARES Act paid FMLA credit
- The inclusion of employer payment of employee student loan payments in a Sec. 127 education assistance plan created by the CARES Act is extended to December 31, 2025

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CAA Miscellaneous Changes (continued)

- School teachers are permitted to include amounts spent on personal protective equipment, disinfectant, and other supplies used for the prevention of the spread of the coronavirus as **deductible educator expenses**
- The CAA provides assistance for **funeral expenses** incurred on or before December 31, 2020 related to COVID-19
 - ARPA removed the December 31, 2020 deadline
 - FEMA will begin accepting applications on April 12, 2021
 - FEMA has published [FAQs](#) on the application process
 - It appears that up to \$9,000 of costs will be covered

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CAA Flexible Spending Account Changes

- Health FSA balances and DCFSA balances at the end of the 2020 plan year or 2021 plan year may be carried over to the next plan year
- The permitted grace period after the 2021 plan year may extend to December 31, 2022
- An employee who ceases to participate in a Health FSA or DCFSA due to termination during calendar 2020 or 2021 may continue to seek reimbursement of unused HFSA or DCFSA balances through the end of the plan year in which participation ceases, including any grace period

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CAA Flexible Spending Account Changes (continued)

- For employees
 - Enrolled in a DCFSA for a plan year in which the enrollment period ended on or before January 31, 2020
 - Who have a child who turned 13 during the plan year (i.e., aged out), and
 - Who have a balance at the end of the plan year

The age at which the child will age out is increased to age 14 to permit the carryover of the unused balance.

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CAA Flexible Spending Account Changes (continued)

- For the 2021 plan year, a plan may permit an employee to make a prospective election to modify the employee's elective contributions to the FSA without regard to any change in status
- See your employee benefits attorney regarding changes to your plan document

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Final UBIT Siloing Regulations

- The TCJA enacted Code section 512(a)(6)
 - Requires that unrelated trade or business activities be tracked in separate silos
 - A net loss from one trade or business activity is no longer permitted to offset net income from a separate trade or business activity
- On December 2, 2020, final UBIT siloing regulations were published in the Federal Register

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Final UBIT Siloing Regulations (continued)

- Separate trade or business silos are identified by determining the 6-digit NAICS code applicable to an individual trade or business activity
 - Activities whose 6-digit codes share the same two leading digits are then permitted to be aggregated
 - The two leading digits correspond to 20 unique economic sectors
 - NAICS codes are maintained by the [U.S. Census Bureau](#)
 - NAICS codes may be looked up on the [NAICS site](#)
 - The final regs permit changes to NAICS codes without consent

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Final UBIT Siloing Regulations (continued)

- In addition to NAICS code-derived silos, the regulations identify four other relevant trade or business categories:
 - Investment activity
 - S-corporations
 - Specified payments from section 512(b)(13)-controlled entities
 - Insurance income under section 512(b)(17)

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Final UBIT Siloing Regulations (continued)

- Investment activity
 - Debt-financed income
 - Qualifying partnership interests
 - De minimis test
 - Participation test
 - Qualifying S-corporation interests
 - De minimis test
 - Participation test

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Final UBIT Siloing Regulations (continued)

- Special rule for S-corporation interests that are not qualified S-corporation interests
 - Where an organization owns stock in an S-corporation, such S-corporation interest is treated as a separate unrelated trade or business for the purpose of section 512(a)(6)

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Final UBIT Siloing Regulations (continued)

- 512(b)(13) controlled organization specified payments
 - NAICS codes are not used in this situation
 - A **specified payment** includes any interest, annuity, royalty, or rent
 - Specified payments of different types received from the same 512(b)(13) entities are treated as belonging to the same, separate trade or business
 - Specified payments of the same type from two different 512(b)(13) entities are treated as from two, separate trades or businesses

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Final UBIT Siloing Regulations (continued)

- 512(b)(17) insurance income is treated as coming from the same unrelated trade or business activity
- If two or more unrelated activities that are carried on together would be treated as two separate unrelated trades or businesses under the NAICS codes, the “fragmentation rule” is applied to require that the two or more activities be separately examined to determine if they belong in the same or in different silos

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Final UBIT Siloing Regulations (continued)

- Shared expenses must be allocated among silos
 - The final regs require shared expenses to be allocated on a reasonable basis
 - The IRS has reserved providing further, concrete guidance in this area in the future
 - The proposed regulations had specified that an allocation based on gross revenue is presumptively unreasonable
 - The final regulations remove this restriction unless there are different charges for different populations

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Final UBIT Siloing Regulations (continued)

- Post-2017 NOLs from a discontinued activity, regardless of why it is discontinued, are suspended
 - Unlike passive-activity losses, suspended losses are not permitted to be used upon termination of an activity
 - Such suspended losses may be picked up and used in the future if a new trade or business in the same silo is initiated

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Changes to the 2020 Form 990-T

- Forms 990-T filed in February 2021 and later will be electronically filed
- The new [Form 990-T](#) core form now limits its content to:
 - Summarizing the unrelated business taxable income from all sources
 - Computing the tax
 - Reporting estimated tax payments and tax credits
 - A few statements regarding activities

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Changes to the 2020 Form 990-T (continued)

- The new [Form 990-T, Schedule A](#) is completed for each unrelated trade or business
 - The Schedule A is largely the same as the previous Schedule M

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Form 990, Schedule A and PPP Loan Forgiveness

- The IRS has stated publicly that forgiven PPP loan balances will not negatively impact an organization's public support test under sections 170(b)(1)(A)(vi) and 509(a)(2)
- The IRS has stated that this will be addressed in upcoming Form 990 instructions
- One IRS representative is quoted as stating that PPP loan forgiveness will be reported as a contribution from a government unit *in the tax year the loans are forgiven*
 - Does this mean there could be a book-to-tax difference?

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Health Care Sharing Ministries

- In June 2020, the IRS issued proposed regulations that purport to permit an HRA to reimburse payments for membership in a health care sharing ministry
 - This includes:
 - An HRA integrated with a traditional group health plan
 - An ICHRA
 - A QSEHRA
 - An EBHRA
- Membership in a health care sharing ministry will not permit a member to make payments to an HSA

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Health Care Sharing Ministries (continued)

- The “catch”
 - There is a catch — the proposed regulations do not eliminate:
 - The requirement that a QSEHRA provide an insurance policy that provides *minimum essential coverage*
 - The requirement that an ICHRA be integrated with some form of qualifying insurance
 - This means that the HRA must pay for both an insurance plan *and* the health care sharing ministry membership
 - Stay tuned to see what the final regulations provide
 - These rules will not be effective until the regulation is final

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Deferral of Employee Payroll Tax

- On August 8, 2020, President Trump issued a presidential memorandum allowing employers to defer the withholding and payment of the employee’s portion of section 3102(a)
- Prior law required that the deferred payroll taxes be withheld on a pro-rata basis from each payroll between January 1, 2021 and April 30, 2021
- The Consolidated Appropriations Act extends this period to December 31, 2021

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Deferral of Employee Payroll Tax (continued)

- Before the end of 2020, the IRS provided guidance on its [website](#) regarding how to report the deferral on the employee's Form W-2
 - Wages for which the tax was deferred in 2020 are included in Box 3
 - The deferred tax is **not** included in Box 4
 - Taxes subsequently withheld in 2021 are reported in Box 4 on a Form W-2c, entering the tax year 2020 in Form W-2, Box c

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HEERF Payments and 1098-T

- Higher Education Emergency Relief Fund (HEERF) payments made to students who experienced unexpected expenses, unmet financial need, or other expenses should not be included in gross income.
 - They are nontaxable disaster relief payments under section 139.
- Institutions do **not** report student emergency financial aid grants on Form 1098-T (box 5)
 - **For tax-year 2021:** the total amount of qualified tuition and related expenses (QTRE) paid by the student should **STILL** be reported in box 1 of Form 1098-T, even if paid with emergency financial aid
 - No amount is reported in Box 5

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Section 4960 Regulations

- On June 11, 2020, the IRS released proposed regulations implementing the excess executive compensation rules enacted under TCJA as Code section 4960
- Excess executive compensation is compensation in excess of \$1 million and certain excess parachute payments
 - Wages paid to a minister for ministerial services are excluded from the definition of excess executive compensation
- The proposed regulations define many terms found in the statute

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Section 4968 Regulations

- On October 15, 2020, the IRS issued final regulations under section 4968 regarding the excise tax on endowment net investment income of colleges and universities
- The regulations address many significant questions regarding the definition of a tuition-paying student and which assets are used directly in carrying out the institution's exempt purpose

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Higher Education Emergency Relief Fund

- First round (HEERF I) created by the CARES Act
 - Funding amount – \$14.237 billion (out of \$30.75 billion of education funding)
 - [Ed Department HEERF I page](#)
- Second round (HEERF II) funded by the Coronavirus Response and Relief Supplemental Appropriations Act (Division M of the Consolidated Appropriations Act of 2021)
 - Funding amount – \$21.2 billion (out of \$81.88 billion of education funding)
 - [Ed Department HEERF II page](#)

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Higher Education Emergency Relief Fund (continued)

- Key program elements
 - HEERF grants are subject to Uniform Guidance
 - Funds should be drawn down as needed
 - Unexpended funds are to be held in an interest-bearing account
 - Interest earned in excess of \$500 per year must be remitted to the federal government
 - Excess funds should be returned and can be re-drawn once a plan for orderly distribution is devised
 - Student emergency financial aid grants are not includible in the student's gross income; not reportable on Form 1098-T

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Higher Education Emergency Relief Fund (continued)

- Key program elements (continued)
 - Student emergency financial aid grants may be used by the student for food, housing, course materials, technology, health care, child care, and other costs of attendance
 - Student portion funds not expended immediately in the Spring of 2020 may be expended in later terms
 - But the emphasis was to be on immediate distribution

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Higher Education Emergency Relief Fund (continued)

- Key program elements (continued)
 - HEERF student portion funds may not be used
 - To reimburse the institution for refunded room and board
 - To reimburse the institution for IT hardware (laptops, Wi-Fi hotspot devices, etc.) provided to students
 - To pay student workers for campus jobs
 - To pay outstanding student account balances

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Higher Education Emergency Relief Fund (continued)

- Key program elements (continued)
 - HEERF institutional portion funds may be used to:
 - Reimburse the institution for refunds to students for room and board, tuition, other fees
 - Upgrade IT infrastructure to support distance learning
 - Reimburse the institution for IT hardware (laptops, Wi-Fi hotspot devices, etc.) given to students transitioning to distance learning
 - Refund rent payments for student housing
 - Purchase COVID-19 cleaning supplies and PPE
 - Provide additional student emergency aid to eligible students

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Higher Education Emergency Relief Fund (continued)

- Key program elements (continued)
 - HEERF I student emergency financial aid grants may not be made to students exclusively enrolled in an online program on March 13, 2020
 - However HEERF II student emergency financial aid grants may be made to students enrolled exclusively in an online program
 - HEERF II student portion is equal to the *amount* of the HEERF 1 student portion
 - Therefore, more is available for the institutional portion

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Higher Education Emergency Relief Fund (continued)

- Key program elements (continued)
 - HEERF II special rule for application to student accounts
 - “If an institution obtains a student’s written (or electronic), affirmative consent, an institution is permitted to apply these grants directly to the student’s institutional account; however, **students must be informed that they retain the option to receive a direct disbursement of the financial aid grant** and that an institution may not require that the grant be applied to the student’s account”
 - [From Jan. 14, 2021](#) letter issued by Acting Assistant Secretary for Postsecondary Education, Dr. Christopher McCaghren

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Higher Education Emergency Relief Fund (continued)

- Data required to be reported:
 - Student portion:
 - How grants were distributed to students
 - How the amount of each grant was calculated
 - Instructions the institution gave students regarding the grant
 - For HEERF II grants
 - How the institution identified and prioritized students with “exceptional need”

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Higher Education Emergency Relief Fund (continued)

- Data required to be reported:
 - Institutional portion:
 - Provide an accounting for institutional costs
 - Such costs were associated with significant changes to the delivery of instruction due to the coronavirus and do not include
 - Payments to contractors for the provision of pre-enrollment recruitment activities;
 - Endowments; or
 - Capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship
 - Accounting of reimbursements for student room & board refunds
 - Description of internal controls used to ensure proper expenditure

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Higher Education Emergency Relief Fund (continued)

- Lost revenues (Sec. 18004(a)(2) and (a)(3) recipients)
 - Must demonstrate year-over-year decreases in revenue that are the result of a decline in
 - Enrollment
 - Student fees, including housing fees and meal plans
 - Parking and facilities revenue
 - Revenue from summer programs or other activities disrupted by COVID-19

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Higher Education Emergency Relief Fund (continued)

- Key guidance
 - [Ed Department-Office of Post-Secondary Education Homepage](#)
 - [HEERF I FAQ Rollup document](#) (published October 14, 2020)
 - Summarizes the content of five separately issued FAQ documents
 - [HEERF Reporting Requirements Table](#)
 - [Annual Performance Reporting Requirements](#)
 - [Public Quarterly Reporting Requirements](#)
 - [January 14, 2021 letter](#) issued by Acting Assistant Secretary for Postsecondary Education, Dr. Christopher McCaghren

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Higher Education Emergency Relief Fund (continued)

- Key guidance (continued)
 - [HEERF II FAQs](#) (originally published January 14, 2021; updated March 19, 2021)
 - [HEERF Grant Program Auditing Requirements](#) (published March 8, 2021)
 - [Notice of Interpretation](#)
 - Formal guidance on moving date for computation of lost revenues and allowable expenses

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Higher Education Emergency Relief Fund (continued)

- Key guidance (continued)
 - [Lost Revenues FAQs](#) (HEERF I, HEERF II, HEERF III) (published March 19, 2021)
 - [Period of Allowable Expenses for Higher Education Emergency Relief Fund \(HEERF\) grant programs](#) (published March 19, 2021)
 - Pushes the date for allowable expenses back to March 13, 2020

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Higher Education Emergency Relief Fund (continued)

- Other resources
 - [NASFAA Higher Education Emergency Relief Fund \(HEERF\) Reference Page](#)
 - [NASFAA Higher Education Emergency Relief Fund II \(HEERF II\) Reference Page](#)
 - [NASFAA Higher Education Emergency Relief Fund III \(HEERF III\) Reference Page](#)
 - [NASFAA HEERF Comparison Chart](#)

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Higher Education Emergency Relief Fund (continued)

- Student Emergency Assistance Eligibility
 - An individual who is, or could be, eligible under section 484 of the HEA, to participate in programs under title IV of the HEA
 - [Interim Final Rule](#) (85 FR 36494)
 - This rule does not apply to HEERF II awards
 - In most cases, this will exclude international students
 - The Ed Department has indicated it will not take enforcement action with respect to student emergency financial aid distributed before June 17, 2020 to students who were not Title IV eligible (FAQ 15)

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Higher Education Emergency Relief Fund (continued)

- HEERF II
 - Institutions do not need to complete a new application if the institution received a HEERF I Student Aid Portion or Institutional Portion
 - An institution that didn't receive one or both of the above will need to apply for the portion for which it did not previously apply
 - [Table of awards](#) includes:
 - The total award amount
 - Minimum amount that must be spent on student aid
 - Amount available for institutional portion

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Higher Education Emergency Relief Fund (continued)

- HEERF II (continued)
 - Institutions must prioritize students with exceptional need
 - E.g., Pell Grant recipients, others with exceptional need
 - Recipients should be prepared to document how students were prioritized to receive assistance
 - Students enrolled solely in distance learning are now eligible to receive Student Aid
 - **Unexpended HEERF I Student Aid funds may be used to assist students enrolled solely in distance education (HEERF FAQ 12)**
 - HEERF II Student Aid is not limited to Title IV-eligible students

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Higher Education Emergency Relief Fund (continued)

- HEERF II (continued)
 - Institutions may expend the Institutional Portion (including unexpended CARES Act funds; see HEERF II FAQ 12) to:
 - Defray expenses associated with coronavirus, including:
 - Lost revenue
 - Reimbursement for expenses already incurred
 - Technology costs associated with a transition to distance education
 - Faculty and staff trainings
 - Payroll
 - Carry out student support activities (see HEERF II FAQ 11)
 - Make additional financial aid grants to students

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Higher Education Emergency Relief Fund (continued)

- HEERF II (continued)
 - The Education Department has provided prior approval under the Uniform Guidance regulations for certain expenditures
 - See HEERF II FAQ 20 for the specific categories of expenditures

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Higher Education Emergency Relief Fund (continued)

- HEERF III
 - HEERF III funding is authorized by ARPA, which became law on March 11, 2021
 - The Ed Department has issued little HEERF III guidance so far
 - The statutory authority for HEERF III is based on the language of HEERF II, except that there is an explicit mandate to use funds
 - To implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines; and
 - To conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or in certain other circumstances

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Higher Education Emergency Relief Fund (continued)

- Relevant Deadlines
 - HEERF I
 - Institutions have 365 days from the date of their HEERF I Grant Award Notification to complete the performance of the grant
 - There is a 90-day period to liquidate obligations made during the 365-day performance period
 - As you approach the end of the performance period, if you have unobligated funds, you should discuss this with your program officer
 - An extension may be allowed under certain conditions
 - First HEERF annual reporting period was January 5 – February 8, 2021
 - Report expenditures between March 13 and December 31, 2020

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Higher Education Emergency Relief Fund (continued)

- Relevant Deadlines (continued)
 - HEERF II
 - Institutions that are required to apply have until April 15, 2021 to do so (FAQ 4)

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