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Insights

IRS Releases FAQs on Tax Treatment of Higher Education Emergency Relief Fund and Emergency Financial Aid Grants under CARES Act

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On May 8, 2020, the IRS released two new FAQs related to relief provided under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") designed to allow higher education institutions to use certain funds allocated by the Department of Education to support students and higher education institutions with expenses and financial needs related to the coronavirus (COVID-19) pandemic.

The following relief are among the benefits provided to higher education institutions and students under the CARES Act:

- Section 3504 of the CARES Act allows higher education institutions to use supplemental educational opportunity grant funds received through the Higher Education Act to award emergency financial aid grants to students experiencing unexpected expenses and unmet financial need because of the COVID-19 pandemic;
- Section 18004 of the CARES Act provides relief funds out of the Higher Education Relief Fund directly to higher education institutions to support the costs of shifting classes online and for grants to students for food, housing, technology, and other purposes; and
- Section 18008 of the CARES Act directs the Secretary of Education to allocate additional funds to certain historically black colleges to directly support their students facing urgent needs related to the COVID-19 pandemic, allowing the institutions to cover operating costs and to make grants to students in need.

The new FAQs address the tax treatment of funds received under Sections 3504, 18004, or 18008 of the CARES Act and of expenses paid with such funds. The FAQs make clear that:

- Financial aid grants under the CARES Act are qualified disaster relief payments under Section 139 of the Internal Revenue Code ("Code") and, as such, are not includible in the gross income of the recipient.
- Pursuant to Section 139(h) of the Code, because the financial aid grants under the CARES Act are not includible in a recipient's gross income, a recipient cannot claim any deduction or credit for expenses paid with the grant proceeds, including the Tuition and Fees Deduction (extended through 2020 by the Further Consolidated Appropriations Act, 2020), the American Opportunity Tax Credit (established by the American Recovery and Reinvestment Act of 2009), or the Lifetime Learning Tax Credit (established by the Taxpayer

Relief Act of 1997).

For more information regarding this alert, or other tax issues impacting colleges and universities, please contact **Kendall A. Schnurpel, Robert A. Greising**, or any member of **Krieg DeVault's Higher Education Industry Group**.