Impact of Government-Provided Relief on the Private Club Industry

By Kerri Rawcliffe, CPA, Senior Manager

Now that the club is closed, and most activities have halted, private clubs are focused on navigating the next few months.

The recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) Act, includes immediate relief and provisions for private clubs. Also listed below are some government-provided relief provisions that all private clubs may benefit from, including:

- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loans (EIDLs)
- Payroll tax credit
- Expanded benefits to employees

Both the EIDL and PPP are administered by the Small Business Administration (SBA). Private clubs can qualify to obtain an SBA loan if it has fewer than 500 employees or meets the annual receipts thresholds as set forth in the SBA size standards.

Paycheck Protection Program (PPP) Loans [Emergency SBA 7(a) Loans]

The Paycheck Protection Program (PPP), provides special emergency loans of up to $10 million to eligible nonprofits and small businesses. Applicants can receive loan proceeds to be used for the following:

- Payment of eligible payroll costs (the sum of payments to any one employee in an amount not more than $100,000 for one year prorated for the covered period) which includes salary, commissions, payment for vacation, parental, family, medical, and/or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits (including insurance premiums)
- Payment of any retirement benefit
- Payment of any state or local tax assessed on the compensation of employees
- Interest on debt obligations
- Rent or mortgage payments
- Utilities expenses

The SBA began accepting applications on April 3rd.

PKFOD Observation: Currently, the Paycheck Protection Program is only available to non-profit organizations described in 501(c)(3) and 501(c)(19) sections of the Internal Revenue Code. Tax-exempt private clubs are not listed in the CARES Act as being able to take advantage of this; however, it could change in the near future, and we are following this closely. At this moment, we do believe that this does apply to taxable private clubs, and we encourage those to reach out to their SBA lender immediately as the program is rolling out now. Upon receiving further information from the SBA, we will update you accordingly.

Economic Injury Disaster Loans (EIDLs) [Emergency Loans]

The CARES Act expands emergency loans for private nonprofit organizations (of any size) enabling them to receive advances for $10,000 within three days of applying for the loan. EIDLs are loans of up to $2 million that carry interest rates of 2.75% for nonprofits, as well as principal and interest deferment. In essence, this advance is a grant and is not required to be repaid, even if the application is denied; however, the amount of the advance must be deducted from any loan forgiveness amounts under a PPP loan (discussed above).

The loans may be used for broader purposes, including expenses that could have been met had the disaster not occurred, such as for payroll and other costs, as well as to cover increased costs due to supply chain interruption, to pay obligations that cannot be met due to revenue loss, and for other uses.

Eligible grant recipients must have been in operation on January 31, 2020.

A private club that receives an EIDL between January 31, 2020 and June 30, 2020, as a result of a COVID-19 disaster declaration, is eligible to apply for a Paycheck Protection Program loan, or the private club may refinance their EIDL into a Paycheck Protection Program loan. In either case, the emergency EIDL grant award of up to $10,000 would be subtracted from the amount forgiven in the PPP. ***Note:*** This provision eliminates creditworthiness requirements for all applicants, including nonprofit organizations.

PKFOD Observation: A tax-exempt private club should consider applying for an EIDL loan immediately. These loans may be refinanced into a PPP loan if the next phase of the bill is expanded to allow tax-exempt private clubs to take advantage of the PPP.

Payroll Tax Credit (Employee Retention Credit)

Private clubs are eligible for a 50 percent refundable payroll tax credit on wages paid up to $10,000 per employee during the crisis. This credit is available to all private taxable and non-taxable clubs whose operations were disrupted due to virus-related shutdowns. The credit is available for employees retained but not currently working due to the pandemic, for private clubs with more than 100 employees, and for all employees of private clubs with 100 or fewer employees.

PKFOD Observation: This is a payroll tax, therefore private clubs who utilize a payroll service should proactively reach out to their payroll providers to learn more about receiving and calculating this credit. In general, private clubs have very little credits that they are able to take advantage of since they don’t pay much in the way of income taxes. Since the credit in the CARES Act applies to payroll taxes, this is a great opportunity for private clubs to benefit as well.

This credit is not available to any private club who applies for and receives a loan under the Paycheck Protection Program. Since tax-exempt private clubs are not currently eligible for the PPP loan, they are able to take advantage of this credit.

Expanded Benefits to Employees

Government-provided relief also provides benefits to employees who are on leave due to issues surrounding the virus.

<u>Emergency Paid Sick Leave Act</u>

Provides for up to 80 hours of paid sick leave if the employee cannot work *or telework* because the employee:

- Is subject to federal, state or local quarantine or isolation order related to COVID-19;
- Has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- Is caring for an individual who is subject to a quarantine or isolation order or who has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- Is caring for a son or daughter whose school or daycare has been closed, or when a child care provider is unavailable, due to COVID-19 precautions; or
- Is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services.

Emergency Family and Medical Leave

FMLA benefits have been expanded so that Emergency FMLA (EFMLA) leave is now available to an employee unable to work (or telework) due to a need for leave to care for a child under age 18 if the school or place of care has been closed, or the childcare provider of such son or daughter is unavailable due to a public health emergency.

Some EFMLA stipulations:

- Applies to all employers with less than 500 employees, even those employers with less than 50 employees who are not traditionally subject to FMLA; and

- The first 10 days of EFMLA are unpaid. For the remaining portion of any FMLA leave, employees receive up to two-thirds of their pay, with such payments capped at a maximum of $200 a day.

Tax-Free Financial Assistance to Employees

The President declared a national emergency on March 13, 2020 and invoked the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Declaration) in response to the COVID-19 pandemic. This Declaration allows employers to provide tax-favored financial assistance to employees who are impacted, directly or indirectly, by the coronavirus.

Employers may now provide assistance, whether in cash or services, to employees affected by COVID-19 and that assistance shall be treated as tax-free to the recipients, exempt from federal income and employment taxes. In addition – because there are no mandatory administrative requirements under this provision and it does not require itemized receipts from employees – employers can react promptly to provide financial support and help alleviate the immediate needs of their employees.

Some examples of financial assistance include:

- Medical expenses related to COVID-19 not compensated for by insurance;
- Other health-related expenses including over-the-counter medication or hand sanitizer;
- Funeral expenses of the employee’s family as a result of COVID-19;
- Child care for workers whose normal source of child care is unavailable due to COVID-19;
- Tutoring expenses for employees’ children; and
- Increased telecommuting costs, such as computers, printers, or supplies.

The payments may be made to all of the company’s employees, regardless of how long they have worked there, and there is no cap on the amounts that can be paid to any individual employee or to all employees in the aggregate. These payments cannot be a replacement of wages.

Food-to-Go

At this point, most private club operations are fully put on hold. Tax-exempt private clubs traditionally would record food-to-go as unrelated business taxable income (subject to gross receipt limitations) since it falls into the non-traditional revenue category. Right now, in order to keep providing amenities to members, more private clubs are providing food-to-go to their members. Typically, nontraditional revenue, such as carryout, must be limited to a de Minimis amount – this means, small, insignificant, and non-recurring. However, due to the current pandemic situation, private clubs have been informing members that they will be delivering to homes and elderly members as well as providing members the option of picking up food for carryout.

PKFOD Observation: Although the IRS has not released guidance, many experts have agreed that due to the current pandemic situation, it is not likely to become an issue with the IRS in relation to nontraditional activities (UBI). When the stay-at-home orders are lifted, tax-exempt private clubs should go back to maintaining their food-to-go limitations to a de minimis amount.

Qualified Improvement Property

A fix of the qualified improvement property drafting error in the Tax Cuts and Jobs Act (TCJA) has finally made its way to the CARES Act allowing taxable private clubs to take a full deduction for qualified improvement property by using bonus depreciation. Under this correction, the useful life for property under the qualified improvement category would change to 15 years, versus the original 39. Taxable private clubs with large renovations may want to go back and amend their 2018 tax return for the additional deduction.

Other Ideas for Board and Management Consideration

Not knowing how long the sequester will last and what life will be like on the other side, the club Board and its management may find the following suggestions of some value.

Bring Your Club to the Members

All private clubs will need to find new ways to interact with its members. Virtual communications and interactions with members can be accomplished in various ways, including;

- Daily recipe suggestions, or even videos, emailed to members from the Chef;
- Quick video chat lessons or tips from the golf pro, free of charge;
- Individually checking on older or high-risk members with a phone call every few days;
- Updating the member directory to help members connect electronically;
- Ask members to submit stories of their favorite memories at the club, and then sending out a weekly “feel-good” newsletter with these stories; or
- Sending out suggestions for games or activities to do with children who are home from school.

Cash Flow Forecasting

During this uncertain time, private club management is focused on budgeting short-term cash flow and determining what sources of cash are available. With proper cash budgeting, many private clubs could maintain a three-month period of adequate club operations while being shut down. Consider these steps to preserve your cash and create liquidity for your private club:

- **Review current cash position.** Review your business forecast and cash flow budget and make revisions, as necessary.
- **Explore options to access to cash,** including SBA loans, bank line of credit, unused pre-approved credit cards and traditional loans.
- **Review your fixed costs.** What can be cut/reduced while shut down?
- **Revisit current commitments** and determine what can be put on hold.
- **Consider the volatility of monthly dues.** Is there more to say here?
- **Work with your bank.** Many banks are deferring mortgage payments for three months.
- **Contact insurance brokers/providers.** Explore a reduction in workers’ compensation since payroll will be down.
- **Reschedule outings until later in the year.** Some clubs may be able to pick up outings from other clubs that cannot be fully operational to generate a little extra income.

Preparing for Re-Opening

Private clubs can use the current down time to get creative and plan for a more enjoyable club experience when members and employees return. Start surveying members prior to re-opening to see what activities and amenities they’d be interested in. With Board approval, the club can focus time and cash in these areas, while giving serious consideration to:

- Budgeting and planning for the rest of the season – Will you have the normal summer camps and other programs/activities given the current environment?
- Activities – Will you offer social activities, open the pool, or limit the remainder of the season to just golf?
- Social distancing, if still relevant – How will it affect any club activities?
- Building programs, skills and morale – Consider:
    - Training employees on enhancing member relationships and other hospitality skills.

- Strengthening club leadership skills.
- Engaging employees on developing ideas on how to make the club a better place for returning members.
- Reviewing policies and procedures in-place and updating/improving as necessary.
- Focusing on employee morale so employees come back to open the club with a positive attitude.
- This may be an opportunity to recruit talent that was not previously available for employment.

Contact Us

Visit our COVID-19 Resource Center for more news and insights on related topics.

For additional information on Disaster Loans, contact the SBA disaster assistance customer service center. Call 1-800-659-2955 or e-mail disastercustomerservice@sba.gov or, visit www.sba.gov.

For additional information on developments regarding payroll tax relief, call your payroll service or visit, if applicable, ADP's website.

If you would like further information on any of the topics covered in this article, please contact the partner in charge of your account or:

Kerri Rawcliffe, CPA
Senior Manager
krawcliffe@pkfod.com

Ned McCrory, CPA
Partner
nmccrory@pkfod.com

Geoffrey Benedict, CPA, CGMA
Partner
gbenedict@pkfod.com

www.pkfod.com

About PKF O'Connor Davies

PKF O'Connor Davies, LLP is a full-service certified public accounting and advisory firm with a long history of serving clients both domestically and internationally. With roots tracing to 1891, twelve offices in New York, New Jersey, Connecticut, Maryland and Rhode Island, and more than 800 professionals, the Firm provides a complete range of accounting, auditing, tax and management advisory services. PKF O'Connor Davies is ranked 27th on *Accounting Today*'s 2020 "Top 100 Firms" list and is recognized as one of the "Top 10 Fastest-Growing Firms." PKF O'Connor Davies is also recognized as a "Leader in Audit and Accounting" and is ranked among the "Top Firms in the Mid-Atlantic," by *Accounting Today.* In 2020, PKF O'Connor Davies was named one of the 50 best accounting employers to work for in North America, by *Vault*.

PKF O'Connor Davies is the lead North American representative in PKF International, a global network of legally independent accounting and advisory firms located in over 400 locations, in 150 countries around the world.