

## Federal DOL Issues Unemployment Comp Guidance for Reimbursing Employers

On April 27, 2020, the Department of Labor (DOL) issued [Unemployment Insurance Program Letter No. 18-20](#), which explains how nonprofits that do not contribute to a state unemployment insurance trust fund (UITF) will be partially reimbursed by the federal government for the increased cost of unemployment comp (UC) benefits caused by COVID-19.

A nonprofit that does not contribute to a state's UITF reimburses the fund for the UC benefits that the state has paid to the nonprofit's employees who have been separated from employment or had their hours of work reduced. The [Coronavirus Aid, Relief, and Economic Security \("CARES"\) Act](#) includes a provision that reduces a reimbursing nonprofit's UC obligation by 50%.

The DOL's guidance explains that:

- The nonprofit must first reimburse the state UITF for the full amount of UC benefits that the state has paid to the nonprofit's employees. The fund then reimburses the nonprofit 50% of that amount. It is not clear whether states will require employers to file a reimbursement claim.
- The reimbursements to the nonprofits apply to all payments made in lieu of contributions for weeks of unemployment beginning on or after March 13, 2020 and ending on or before December 31, 2020, even if the unemployed individual is not unemployed as a result of COVID-19.
- The nonprofit is not required to reimburse the UITF for the special pandemic UC benefit for which the federal government pays 100% of the cost. This would include the enhanced \$600 benefit, the extra up-to-13 weeks of UC benefits if an employee is still unemployed after 26 weeks, and the up-to-39 weeks of UC benefits paid to the employees who are not eligible for state UC benefits.

To learn more, including the reaction from the nonprofit community to the two-step process for reimbursement, see Shipman & Goodwin's "[DOL Clarifies CARES Act Unemployment Rules for Nonprofits and Municipalities](#)" and National Council of Nonprofits' "[DOL Issues Breathtakingly Cruel Guidance Inflicting Billions in Immediate Costs onto Charitable Organizations Struggling to Serve Their Communities](#)." It is possible that lobbying efforts might result in the DOL reconsidering the two-step requirement or Congress and the President taking steps to overturn the DOL's position.