



# The Auditor's Report

## Credit Unions and the CARES Act

On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. It was a response to the market volatility and instability resulting from the coronavirus pandemic and includes provisions to support individuals and businesses in the form of loans, grants, and tax changes, among other types of relief. One of the more important items in the CARE Act is the suspension of specific accounting rules, specifically loan modifications.

The CARES Act provides credit unions with the option to suspend the accounting requirements within ASC 310-40 for loan modifications related to COVID-19 that would otherwise be Troubled Debt Restructurings (TDRs). For a loan to be eligible, the loan modification must be:

1. Related to COVID-19,
2. Modified between March 1, 2020 and the earlier of
  - a. 60 days after the national emergency related to COVID-19 ends, or
  - b. December 31, 2020, and
3. Executed on a loan that was not more than 30 days past due as of December 31, 2019.

Additionally, the National Credit Union Administration (NCUA) with other US banking agencies released interagency statements in consultation with the Financial Accounting Standards Board (FASB) on March 22nd and on April 7th which interpret Generally Accepted Accounting Principles (GAAP) TDR guidance and may be applied if an entity elects to apply guidance under the interagency guidance or wishes to make modifications under the CARES Act. The statements interpret whether a borrower is experiencing financial difficulty, which is one of the criteria for a TDR. It notes that the lender may presume the borrower was not experiencing financial difficulty if:

1. The modification is in response to the COVID-19 National Emergency,
2. The borrower was current on payments at the time a modification program is implemented, and
3. The modification is short-term (for example, less than 6 months).

The interagency statements also provide an interpretation that government-mandated modification or deferral programs related to COVID-19 are not within the scope of ASC 310-40.

Credit unions that are making such modifications should be sure to maintain records of those loans for Call Reporting, exam, and audit purposes. For more resources related to the impact of COVID-19, go to NCUA's web site at [ncua.gov](http://ncua.gov), AICPA's web site at [aicpa.org](http://aicpa.org), and FASB's web site at [FASB.org](http://FASB.org).

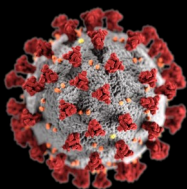
*Chris Vallez, CPA, MBA, Partner  
Nearman, Maynard, Vallez, CPAs*



### INSIDE THIS ISSUE

Credit Unions and The CARES Act..... 1

Unrelated Business Income and Form 990-T ..... 2



## The CARES Act

**Coronavirus Aid, Relief, and Economic Security Act**



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**Nearman  
Maynard • Vallez**  
Certified Public Accountants

Website: [www.nearman.com](http://www.nearman.com)

E-mail: [info@nearman.com](mailto:info@nearman.com)

Toll-free: 800.288.0293



## Unrelated Business Income and Form 990-T

The Internal Revenue Service issued a notice relating to Unrelated Business Income, which requested clarification on program service or other revenue from a Credit Union. The notice is specifically looking for amounts that relate to unrelated business income and Form 990-T. I thought I would take this opportunity to clarify what is defined as unrelated business income according to the Internal Revenue Service, as well as what expenses can be used to offset some of the potential tax liabilities that may arise.

State Chartered Credit Unions exempt under 501(c)(14) must treat the income from the sale of the following products or services as unrelated business income:

- Extended Automobile Warranties
- Dental Insurance
- Cancer Insurance
- Accidental Death & Dismemberment Insurance
- Life Insurance
- Health Insurance
- Auto Buying Services

The Internal Revenue Service does not define the above revenue sources as being from members or non-members, so it is safe to assume that these revenue sources are subject to taxation regardless of the membership. The Internal Revenue Service has also listed the following products or services as subject to taxation if sold to Non-members:

- Credit Life & Credit Disability Insurance
- Guaranteed Auto Protection (GAP) Insurance
- Collateral Protection Insurance (CPI)
- ATM Fees
- Financial Service Products (such as mutual funds and annuities)

Pass-through entities such as partnerships and subchapter S corporations, which the Credit Union wholly owns or is the controlling shareholder (more than 50% owner), are subject to taxation as the net distributable income is considered unrelated business income. There appears to be no distinction between members, non-members, or business services provided by the entity in this area of the Internal Revenue Code. As a planning note, credit unions should consider the ability to keep year end profits at a minimum. Also, some may advise switching entity classification to a C-Corp, but in doing so, it would only push the tax liability to the C-Corp, so avoiding the 21% corporate tax would not be possible.

The Internal Revenue Code allows for expenses to be used to offset the various types of revenues previously mentioned. These expenses must be directly attributable to the revenue and must be calculated separately from each other. Net gains and/or losses from each separate revenue source may not be used to offset those other sources of unrelated business income. Thus, a Form 990-T would be required for each unrelated business income source.

The Internal Revenue Service has been a bit ambiguous in the past as it relates to unrelated business income, but I believe this notice does shed some light on what they are looking for and what Credit Unions should expect in the future.

Gerald E. Creasman, CPA

*Nearman, Maynard, Vallez, CPAs is pleased to announce that Gerald Creasman, CPA will be joining our team to provide 990 tax services for our clients. Gerald has 25 years of experience working with clients nationwide in many different industries to include construction, real estate, retail, condominium associations, legal, credit unions & hospitality to name a few. We are excited to have Gerald join our team!*