

June 25, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell¹²
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, DC 20510

The Honorable Richard Neal
Chairman, Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Grassley
Chairman, Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Kevin Brady
Ranking Member, Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Ron Wyden
Ranking Member, Committee on Finance
U.S. Senate
Washington, DC 20510

Dear Majority Leader McConnell, Speaker Pelosi, Minority Leader Schumer, Minority Leader McCarthy, Chairman Neal, Chairman Grassley, Ranking Member Brady, and Ranking Member Wyden:

The undersigned groups represent nearly all provider facets of the U.S. health care system, from physicians and nurses to hospitals to post-acute care providers and dentists, the vast majority of whom pay taxes to federal and state governments. We seek Congressional action to clarify and correct what we believe are the unintentional tax consequences of policies meant to provide vital funding to health care providers through the Public Health and Social Services Emergency Fund (PHSSEF) and other programs as part of the nation's response to the novel coronavirus (COVID-19) pandemic.

Government payments to corporations are generally considered taxable. Congress recognized this concern in enacting the Paycheck Protection Program (PPP) in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* in March 2020. That program included a provision specifically exempting PPP funds from being taxed. After passage of the *CARES Act*, there was a realization that Congress inadvertently failed to protect the ability for entities receiving PPP funds from maintaining their tax deductions for expenditures attributable to PPP funds. We understand there is bipartisan support to address the deduction issue in upcoming legislation, and the U.S. House of Representatives included such a correction in the *Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act*, which passed the House on May 15th.

We respectfully urge a similar clarification for tax-paying health care providers to ensure that: 1) PHSSEF and similar funding provided in response to COVID-19 is not taxable; and 2) that entities receiving these funds maintain tax deductions attributable to these funds. It is essential that these provisions are enacted together to avoid the situation that occurred with the PPP. Without such a correction, tax-paying health care providers lose at least 21 percent of the benefit of these funds and are treated unequally as compared to non-tax-paying providers. We do not believe Congress intended such a consequence in enacting the *CARES Act* and other COVID-19-related legislation.

The Congressional response to the COVID-19 pandemic has been swift and decisive. It is critical that the actions taken to support front-line caregivers and hospitals are not diluted by technical issues around the taxability of support funds. The current grant structure creates an inefficient process that provides grants, and then takes back 21 percent or more of the same grants for many of the organizations that need the assistance the most. Congress should streamline the assistance process and ensure the target entities receive 100 percent of the assistance Congress intended.

Sincerely,

Ambulatory Surgery Center Association
American Academy of Family Physicians
American Academy of Physical Medicine and Rehabilitation
American Association for Homecare
American Association of Nurse Practitioners
American College of Physicians
American Dental Association
American Hospital Association
American Medical Association
American Nurses Association
American Occupational Therapy Association
American Optometric Association
American Physical Therapy Association
Federation of American Hospitals
National Association for Behavioral Healthcare
National Hospice and Palliative Care Organization
Premier Healthcare Alliance
Private Practice Section of the American Physical Therapy Association
U.S. Chamber of Commerce