

**RE: OMB Number 1545–1810—Form 8881—Credit for Small Employer Pension Plan Startup Costs, Auto-Enrollment, and Military Spouse Retirement Plan**

The undersigned organizations and individuals appreciate the opportunity to share feedback with the Department of the Treasury and the Internal Revenue Service on revisions made to Form 8881 - Credit for Small Employer Pension Plan Startup Costs to reflect new provisions included in the SECURE 2.0 legislation.

In 2022, [Just Futures](#) conducted a national survey on retirement challenges faced by the nonprofit workforce. The findings were shared in a report, “Reclaiming Retirement For All.” Similar to the private sector, small nonprofit employers (particularly those with less than 20 employees) are far less likely to offer retirement plans due to the perceived cost and administrative burden. The report also found that employers implementing automatic enrollment had far greater employee participation.

Thus, we are pleased to see new provisions within SECURE 2.0 that expand coverage and advance equity, including the tax credits for small employers that are the focus of Form 8881.

**1. Form 8881 Successfully Incorporates Multiple New Provisions With a Minimal Amount of Administrative Burden**

Prior to SECURE 2.0, Form 8881 was used to claim a **single credit** under Section 45E for up to 50% of start-up costs for small employers. The amended Form 8881 is fulfilling considerably more functions. It now includes two different credits under 45E (for administrative costs and employer contributions), two brand new credits (45T and 45AA), two different timeframes (3 years and 5 years), different calculations for employers with less or more than 50 employees, and different treatment of the credit for partnerships and S-corporations. Despite this level of added complexity, the IRS has succeeded in keeping the form to one page and is easy to follow thanks to the use of bold subheadings for each of the credits and clear language.

**2. Unfortunately, Small Nonprofit Employers Are Currently Excluded From All Form 8881 Tax Credits**

Small nonprofit employers are ineligible for all of the tax credits that are included on Form 8881. Under SECURE 2.0, a nonprofit employer receives no financial incentive to start providing a retirement plan to their employees, to implement automatic enrollment, or to provide benefits to military spouses.

This is an unfortunate exclusion given that the nonprofit sector is the nation’s third largest employer (after retail trade and manufacturing) with a high growth rate and small nonprofit employers face similar, if not greater, financial and administrative challenges as their counterparts in the private sector. Additionally, the nonprofit workforce has a greater need for employer-based retirement given that nonprofit workers do not have the opportunity to build personal retirement savings through equity or stock options.

### **3. Nonprofit Employers Could Easily Be Included Within IRS Form 8881**

Form 8881, as amended, efficiently addresses the fact that C corporations, S corporations, and partnerships pay their taxes in different ways. The bulk of Form 8881 is focused on calculation of the credit which is the same for all entities. Lines 8, 11, and 15 then instruct S corporations and partnerships to list this amount on Schedule K whereas other employers should list it on Form 3800. Nonprofit employers could be listed here as well and instructed to list the credit on Form 990t.

In fact, the IRS has previously demonstrated its ability to include tax-exempt small employers on forms used to calculate employer tax credits. IRS Form 8941 allows tax-exempt employers, along with other small employers, partnerships and S-corporations to calculate their tax credit for offering health insurance to their employees. Line 20 of Form 8941 instructs tax-exempt employers to list their calculated credit on line 6f of Form 990t. This same approach could be incorporated in Form 8881.

### **CONCLUSION**

In conclusion, we recognize SECURE 2.0's achievement in expanding retirement coverage and advancing retirement equity and applaud the IRS in revising Form 8881 in a manner that offers small employers substantially greater tax credits with minimal additional administrative burden. We believe that the exclusion of nonprofit employers from the Form 8881 tax credits is an unfortunate and major oversight by the Ways and Means Committee. We understand that the IRS does not have the authority to include nonprofit employers within the tax credits covered in Form 8881, but offer this comment to make it clear that the IRS has the capability to include nonprofit employers within Form 8881. Extending retirement plan startup, automatic enrollment, and military spouse tax credits to small nonprofit employers would not require considerable administrative work or creation of a new IRS form.

If and when Congress makes the decision to include small nonprofit employers within the tax credits for start-up programs, we are ready to partner and collaborate with the IRS to ensure maximum uptake of the tax credit to ensure retirement security for the nonprofit workforce.

Thank you for your consideration of our comments.

#### **Organizations**

Just Futures	San Francisco, CA
Independent Sector	Washington, DC
VolunteerMatch	Pleasanton, CA
Native Ways Federation	St. Paul, MN
National Community Action Partnership	Washington, DC
KABOOM!	Washington, DC
Together in Dance	New York, NY
The Laundromat Project	Brooklyn, NY

Children's Rights Inc	New York, NY
The Nonprofit Council	San Antonio, TX
Fund the People	Beacon, NY
Unlocal, Inc	New York, NY
North Star Fund	New York, NY
YVote/Next Gen Politics	New York, NY
The Shotgun Players, Inc.	Berkeley, CA
Community Resource Exchange, Inc.	New York, NY
Climate Action Families	Seattle, WA
Safety Saints	New York, NY
The Praxis Project	Oakland, CA
Center for Nuleadership on Human Justice & Healing	Brooklyn, NY
NYC Partnership for Workers' Rights	New York, NY
Unbrand	Philadelphia, PA
CO/LAB Theater Group	New York, NY
Brookings Community Resource Response	Brookings, OR
Nonprofit Utopia, LLC	Chicago, IL
Prison Journalism Project	Chicago, IL
Mind&Melody	Miami, FL
Asian Women Giving Circle	Brooklyn, NY
Assemble	Pittsburgh, PA
651 ARTS	Brooklyn, NY
Points of Light	Atlanta, GA
Nonprofit Democracy Network	National
Boston Impact Initiative	Roxbury, MA
National Guild for Community Arts Education	New York, NY
BRAVE Communities	Austin, TX
Fund for the City of New York	New York, NY
350Vermont	Burlington, VT
Right to the City Alliance	Brooklyn, NY
Nonprofit New York	New York, NY
National Association of Free and Charitable Clinics	Alexandria, VA

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