

TO: Conference Ministers, Conference Attorneys, Covenant Partners

FROM: Office of General Counsel

DATE: April 15, 2020

RE: Unemployment for Church Workers

## MEMORANDUM

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Please feel free to distribute this memorandum. It is not intended as legal advice to any particular individual or church setting.

### **I. Introduction**

The Office of General Counsel is receiving numerous inquiries about the availability of unemployment benefits to lay church workers and clergy. This memorandum is intended to explain the current status of unemployment compensation for church workers in light of the new federal CARES Act. There are several unemployment assistance programs included in the CARES Act (with enough new acronyms to impress even the most seasoned United Church of Christ members), and church settings should review the information below carefully. Church settings are reminded that individual states are controlling the unemployment assistance process; accordingly, there may be no one right answer to questions that individuals have regarding how they apply for benefits, how the benefit amount is determined, and when they can expect to receive benefits. Individuals who believe they are eligible for unemployment are encouraged to apply directly with the appropriate agency in their state.

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### **II. Executive Summary**

Most church workers are not covered by state unemployment insurance programs.

Church workers, including clergy, who are unemployed due to COVID-19 related reasons may be eligible for unemployment compensation under the Pandemic Unemployment Assistance (PUA) and Federal Pandemic Unemployment Compensation (FPUC) provisions of the CARES Act. Church workers must have their eligibility determined by their state, and each state will follow its own process for making that determination.

### **III. Church Workers and Unemployment**

Many of our United Church of Christ Local Churches and other settings have been surprised to learn that church workers who are terminated are generally not eligible for unemployment compensation through the state's unemployment insurance program. Under federal law and in most states, churches are exempt from paying into the state's unemployment insurance program, or "unemployment taxes." While churches may be able to participate voluntarily in the state unemployment insurance system or participate as a self-insured employer by reimbursing the state for payments made after an employee is terminated, most churches do not. Thus, when church workers are terminated from employment, most are not eligible for unemployment benefits.

### **IV. Pandemic Unemployment Assistance (PUA)**

The CARES Act provides a new unemployment benefit to individuals who are not normally eligible for state unemployment benefits. This benefit is called Pandemic Unemployment Assistance (PUA). It is available to workers not normally eligible for state unemployment compensation, including 1) those not eligible in general for state unemployment benefits (like most church workers) and 2) those who have exhausted all rights to state unemployment benefits.

#### **A. Eligibility for Benefits**

PUA includes church workers whose employers do not pay into state unemployment compensation systems.<sup>1</sup> To be eligible, individuals must certify that they are able and available to work but are unemployed, partially unemployed, or unable or unavailable to work for the following COVID-19-related reasons:

- The individual has been diagnosed with COVID-19, or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- A member of the individual’s household has been diagnosed with COVID-19;
- The individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID-19;
- A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed<sup>2</sup> as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

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<sup>1</sup> Guidance from the Department of Labor states: “Eligibility for PUA includes those individuals not eligible for regular unemployment compensation or extended benefits under state or federal law or pandemic emergency unemployment compensation (PEUC), including those who have exhausted all rights to such benefits. Covered individuals also include self-employed individuals, those seeking part-time employment, and individuals lacking sufficient work history. **Depending on state law, covered individuals may also include clergy and those working for religious organizations who are not covered by regular unemployment compensation.**” (emphasis added)

<sup>2</sup> A school is not considered “closed” as a direct result of COVID-19 after the date the school year is originally scheduled to end.

- The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- The individual has to quit his or her job as a direct result of COVID-19; or
- The individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

Workers who are eligible to receive paid leave (such as under the paid FMLA or paid sick leave provisions of the Families First Coronavirus Response Act) are not eligible for PUA.<sup>3</sup> Workers who can work remotely are also not eligible to receive PUA.

To receive benefits under PUA, workers must first be officially determined ineligible for state unemployment compensation benefits. Each state will have their own process for workers to follow; individuals should check with the appropriate agency in their state. **Further, each state is required to enter into an agreement with the Department of Labor to receive federal funds to implement to PUA program.** It is difficult to determine how the states' own progress in fulfilling the federal requirements will affect workers' ability to obtain benefits in a timely manner.

#### **B. Benefits Duration and Calculation**

Benefits under PUA are available up to 39 weeks for periods of unemployment between January 27, 2020 (retroactive) and December 31, 2020. Benefits will only be available for each week that a qualifying reason exists. The amount of the benefit is the same as it would be under Disaster Unemployment Assistance (DUA), a federal program that provides unemployment assistance to individuals not normally eligible for unemployment compensation when the President has declared a major disaster. Each state calculates DUA benefits differently, based on the provisions of state law for unemployment compensation in the state where the disaster

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<sup>3</sup> Some workers may be eligible to receive Disaster Unemployment Assistance (DUA), where the President has declared a major disaster. These individuals are not eligible for PUA for weeks that they already receive DUA.

occurred. Accordingly, individuals should seek guidance on the amount of benefits from the appropriate agency in their state.

#### **V. Federal Pandemic Unemployment Compensation (FPUC)**

The CARES Act also provides an additional benefit to workers who are eligible to receive PUA (see above), called Federal Pandemic Unemployment Compensation (FPUC). This includes church workers receiving PUA. FPUC is an additional \$600 per week that is automatically added to benefits under PUA—no additional application is needed. FPUC is available for weeks of unemployment beginning on or after the date on which **the worker's state enters into an agreement with the Department of Labor**, through July 31, 2020.

#### **VI. Pandemic Emergency Unemployment Compensation (PEUC)**

If your church setting is one of the few required to pay unemployment taxes or that voluntarily pays unemployment taxes, then any employee that is terminated without fault due to COVID-19 should be eligible for state unemployment benefits regardless of the CARES Act.<sup>4</sup> Once ordinary unemployment benefits have been exhausted, these workers may be eligible for additional benefits under the CARES Act Pandemic Emergency Unemployment Compensation (PEUC) program, which will be administered by each individual state. Employees must apply for the PEUC benefits, which provides up to 13 weeks of additional benefits at the state unemployment compensation level. PEUC benefits begin with weeks of unemployment ending April 5, 2020, and end by December 31, 2020. **PEUC benefits are only available in states that have entered into an agreement with the Department of Labor.**

Individuals who are eligible for PEUC are also eligible for the additional \$600 benefit under FPUC, described above. The FPUC benefit does not require an additional application.

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<sup>4</sup> Churches that reimburse the state for unemployment benefits may be eligible for reimbursement from federal funds up to one-half the cost of the benefits under Section 2103 of the CARES Act. Section 2103 is beyond the scope of this memorandum.

Once an individual who is eligible for PEUC exhausts the benefit, the individual is eligible to apply for PUA, as described in III.

#### **VI. Effect of Unemployment on Paycheck Protection Program Loans**

Churches that have obtained Paycheck Protection Program loans should carefully consider whether terminating employees during the period of the loan will impact the amount of the loan that can be forgiven. Churches may wish to consult an accountant for more information.

TO: Conference Ministers, Conference Attorneys, Covenant Partners of the UCC (for further distribution)

FROM: Office of General Counsel

DATE: Updated April 3, 2020 (originally sent April 2, 2020)

RE: CARES Act for Churches

## MEMORANDUM

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The CARES Act was signed into law on Friday, March 27, 2020. It is a massive stimulus package introduced to combat economic damage as a result of the COVID-19 virus. The law contains several provisions of interest to churches and ministers, which are described below. A full review of the bill is beyond the scope of this memo. This memo is not legal advice to any particular church, and churches with legal questions about eligibility for any relief under the CARES Act should consult an attorney. Recipients of this memo can redistribute it and it will be posted on the UCC's Coronavirus Response resources page.

### Church Acceptance of Government Funds

The General Synod of the United Church of Christ, various settings of the UCC, and its predecessor denominations, have a rich heritage of promoting religious freedom and tolerance. Believing that churches are strengthened, not weakened, by the principle of the separation of church and state, the UCC has long acknowledged its responsibility to protect the right of all to believe and worship voluntarily as conscience dictates, and to oppose efforts to have government at any level support or promote the views of one faith community more than another. At its twentieth gathering, the General Synod continued this legacy by encouraging the involvement of the United Church of Christ in a national campaign to promote the principle of the separation of church and state and the proper role of religion in society. The UCC has a long history of advocating against the establishment of religion by the government, and has taken public positions supporting the separation of church and state, including positions that argue against churches being eligible for public funding, such as the position that it took in the amicus brief it joined in *Trinity Lutheran v. Comer*.

The programs currently being promulgated by Congress make funding available to churches in ways that it has not historically been available. Churches are encouraged to carefully consider the implications of accepting funding from the government before applying for relief under the CARES Act. These implications include both the utility of the government program for

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the church, and the impact of government regulation on the church.

It is unlikely that there is a constitutional problem with churches being eligible for funding under the CARES Act. The CARES Act does not promote religion; it treats religion the same way it treats other organizations and it does not prefer one religion over another. The purpose of the Act, which is limited in time and by funding, is to stimulate the economy as whole in response to a national emergency.

With respect to the protection of religious liberty in the receipt of federal funds, recently released SBA Interim Final Rules state:

All loans guaranteed by the SBA pursuant to the CARES Act will be made consistent with constitutional, statutory, and regulatory protections for religious liberty, including the First Amendment to the Constitution, the Religious Freedom Restoration Act, 42 U.S.C. 2000bb-1 and bb-3, and SBA regulation at 13 C.F.R. 113.3-1h, which provides: “Nothing in [SBA nondiscrimination regulations] shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities.” SBA intends to promptly issue additional guidance with regard to religious liberty protections under this program.

Because of the speed with which this legislation has been enacted, we do not yet know what issues and problems will present themselves and will need to be worked out, so it is important that churches not view the CARES Act as guaranteed money or free money with no strings attached. Interim Final Rules have just been released. Acceptance of government money will undoubtedly come with requirements for accountability for that money. Churches should carefully consider how any accountability requirements may affect their ability to conduct their ministry, and also consider how they can plan for the future with another pandemic or crisis in mind.

Each church of the United Church of Christ can decide for itself whether to pursue funds from the government, and this memorandum is intended to encourage churches to carefully consider all of the implications when it is making these decisions.

### Paycheck Protection Program

The Paycheck Protection Program (PPP) is a loan program administered by the Small Business Administration (SBA). The program expires June 30, 2020. This program is different from other SBA loan programs because small non-profit organizations (fewer than 500 employees) are eligible to apply, including churches and religious organizations. Some churches have been told by SBA lenders that churches are not eligible for SBA programs. This is not the case; lenders who are indicating this are misinformed. Congress specifically expressed its intent to SBA that religious organizations and churches are eligible for this relief. The Interim Final Rules plainly state that eligible organizations include “[a] tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code.” Further, the Interim Final Rules

reference the listing of business not eligible for SBA loans, and notes that “except that nonprofit organizations authorized under the [CARES] Act are eligible.”

**A. How does inclusion in the United Church of Christ Group Exemption affect my church’s eligibility for a PPP loan?**

Churches with standing in an Association of the United Church of Christ are included in the United Church of Christ’s group federal tax exemption. Some churches have asked whether that means their employee headcount will be combined with all churches in the UCC’s group exemption, thus precluding churches from being individually eligible. The answer is that inclusion in a group exemption does not mean that a church is controlled by or controls another organization such that its employees will be included in the headcount of all UCC churches—the church should use its employee headcount only in determining its eligibility.

**B. How much can my church borrow?**

A church is eligible for a loan up to 2.5 times the average monthly payroll cost of the church, based on the prior year. This excludes compensation over \$100,000 for any individual, prorated February 15 through June 30, 2020. The definition of **payroll costs** includes “salary, wage, commission or similar compensation,” as well as payments for vacation benefits; parental, family, medical, or sick leave (except for amounts paid for leave under the Families First Coronavirus Response Act); group health care benefits, retirement benefits, and state and local taxes. The definition of payroll appears to be broad enough for churches to include amounts paid for housing allowance to ministers in their payroll costs calculation.

**C. What can my church use the loan proceeds for?**

Loan proceeds can be used to cover payroll costs and may also be used for mortgage or rent of the church’s building (except not for prepayment), existing utility payments, and interest on pre-existing debt.

**D. Is it true that my church won’t have to pay the loan back?**

The PPP is attractive to churches because it is potentially partially or fully forgivable if certain requirements are met. First, the church must only spend the loan proceeds on the costs described above. The Interim Final Rules clarify that to qualify for forgiveness, 75% of the loan must be spent on payroll costs, with only 25% permitted to be spent on non-payroll costs like rent, mortgage, and utilities. Second, the church must maintain the number of full-time equivalent employees (FTEs) it has during the 8-week period following the loan, based on either the number of FTEs the church had from February 15, 2019 through June 30, 2019, or from January 1, 2020 through February 29, 2020. If the church has reduced its employees already but is able to bring them back on by June 30, 2020, those reductions, if made between February 15 and 30 days after the enactment of the Act, will be ignored for purposes of loan forgiveness. Third, the amount forgiven will be reduced if the church reduces the compensation of any employees more than 25 percent. Churches should keep excellent records of how it spends the loan proceeds if it intends to pursue loan forgiveness.

Churches interested in a PPP loan should consult the SBA’s website ([www.sba.gov](http://www.sba.gov)) and apply directly with a lender.

**E. If my church doesn't apply for a PPP loan or is not eligible for loan forgiveness, is there any other relief under the CARES Act?**

Churches who do not obtain a PPP loan that is forgiven may be eligible for payroll tax postponement under the CARES Act. This tax postponement applies only to the employer share of the Social Security tax, and so will only apply to the wages of lay employees. Churches may postpone paying payroll taxes from March 27, 2020 through December 31, 2020 and pay them over the next two years. Half is due by December 31, 2021, and the other half is due by December 31, 2022.

Churches who do not obtain a PPP loan that is forgiven may be eligible for an employee retention payroll tax credit. To qualify for this credit, churches must have fully or partially suspended operations due to an order from a government authority, or have experienced a decline in revenue for any calendar quarter in 2020 of 50% or more compared to the same calendar quarter in 2019. The employee retention payroll tax credit has additional requirements relating to the eligibility of the church and the qualified wages; churches interested in this payroll tax credit should seek the advice of a qualified tax professional or attorney.

**F. Can clergy defer their Social Security taxes too?**

Clergy may postpone payment of the "employer" portion of their SECA taxes during the same period of time but must pay the "employee" portion of it according to the normal timetable. The postponed taxes are due as described for churches, above. Clergy can do this regardless of whether their employing church has had a PPP loan forgiven, because clergy pay the employer share of their Social Security taxes.

**G. Our church's minister is an independent contractor and their income is reported on Form 1099.<sup>1</sup> Can we include payments to our minister in calculating "payroll costs?"**

No. Payroll costs are limited to amounts paid to employees, not independent contractors. Independent contractors are eligible to apply for their own loans.

**H. The PPP loan application form asks our church to "[l]ist all owners of Applicant with greater than 20% ownership stakes." How should we respond?**

Ordinarily, most churches will leave this blank, as there is likely no individual or organization that owns more than 20% of your church. Each church, however, should evaluate this question independently in case your church's circumstances are unique.

Pandemic Unemployment Assistance Program

The CARES Act expanded unemployment benefits to individuals who are not typically eligible. This includes those who are self-employed, independent contractors, and those not

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<sup>1</sup> Ordinarily a minister is a W-2 employee of their church. It is beyond the scope of this memorandum to address employment classification of ministers, but classifying a minister as a 1099 worker should be the exception and occur under circumstances where the minister is truly an independent contractor.

generally eligible for unemployment under state or federal law. The benefits are available for unemployment after January 27, 2020 and ending on or before December 31, 2020, for eligible reasons.

**A. Are church employees eligible for unemployment compensation?**

Most churches (there are some exceptions) are not required to pay into unemployment insurance in their respective states and do not do so. This means that the employees of most churches, including lay employees, are not eligible for unemployment benefits. Because the CARES Act changes that, church employees who otherwise meet the criteria below may be eligible, though this may be clarified in implementing regulations.

**B. Are ministers eligible for unemployment compensation?**

As for lay church employees, above, the CARES Act makes individuals eligible who are not typically eligible for unemployment compensation. This may include ministers, and implementing regulations may clarify this issue.

**C. What reasons are individuals eligible for unemployment compensation under the CARES Act?**

Unemployment benefits are available to individuals who are unemployed, partially unemployed, or unable to work **only because**:

- They have tested positive for COVID-19 or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
- A member of their household has been diagnosed with COVID-19;
- They are providing care for a family or household member who has been diagnosed with COVID-19;
- A child or other person in the household for whom they have primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of COVID-19, and such school or facility care is required for the individual to work;
- They cannot reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- They cannot reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- They were scheduled to commence employment and do not have a job or are unable to reach the job as a direct result of the COVID-19 public health emergency;
- They have become the breadwinner for a household because the head of the household has died as a direct result of COVID-19;
- They had to quit their job as a direct result of COVID-19;

- Their place of employment is closed as a direct result of the COVID-19 public health emergency; or
- They meet any additional criteria established by the Secretary for unemployment assistance.

**D. Are employees who are on paid FMLA or Paid Sick Leave under the Families First Coronavirus Response Act eligible for unemployment?**

No. Individuals receiving any paid leave benefits, whether under the FFCRA or not, are not eligible. Individuals who have the ability to telework are not eligible.

**E. How do employees apply for unemployment compensation?**

All unemployment benefits will be administered by the states. Information about state unemployment benefits can be found for each state here: <https://www.careeronestop.org/WorkerReEmployment/UnemploymentBenefits/unemployment-benefits.aspx>. It is difficult to say how quickly states will be prepared to administer benefits to those to whom it has not administered benefits before. States may be setting up separate systems to handle claims that are not typically eligible for unemployment.

## **Chat**

10:26 AM

Hello and good morning from CA

10:52 AM

**Andrew Shipley**

Hello from the great city of Charlotte NC

**Fred Whitley**

hello from AZ

**david dubovich**

Hello from Kansas

**Dean Rocco**

Hi, everybody. Good morning from Los Angeles

**Eileen C Gardner**

hello from Wheat Ridge, Colorado

**Kathy Berry Crane**

Hello from Longview Texas

**Andrew Millar**

joining you from Portland Oregon

**Laura Nassau**

Hello from Vermont

**Jean Hawkes**

Hi from Florida

**JoeW from Odessa, Tx**

Hello!

**Karen Densmore**

Greetings from Michigan

**Jesse Davis**

Hello from the Vermont Conference, UCC

**Linda McKiernan-Allen**

on in Indiana

**Jim Blosser**

Joining from Lincoln NE

Richmond, Virginia, during pollen season

**Sarah Hugus**

should I be hearing anything? music? silence over here...

**Lisa Gonzalez**

Hello Everyone from Cleveland! Insurance Board welcomes you to our webcast on the CARES Act given by Dean Rocco. Please do not hesitate to reach out and ask questions during the webcast or after. We pray everyone stays

**Jean Hawkes**

**Lisa Gonzalez**

There is currently music playing

yes there is audio

**Linda McKiernan-Allen**

Linda McKiernan-Allen, from Tipton, Indiana

I hit tap to unmute and the music started

**Diane Baldwin**

**tom harmon**

tom Harmon AZ

Daniel Bringman

**Daniel Bringman**

Daniel Bringman

**Dean Rocco**

Hi, all. I'm online if folks have questions. I hope you enjoy the program!

**Deborah Bernard**

Deborah Bernard from Bellingham, WA

**Sarah Hugus**

can I call in for audio? no ph# showed up on my email - just a ? in a box

**Sue**

do I have to log in to Vimeo?

**Tara Olsen Allen**

Tara Olsen Allen from Exeter, NH

Sorry no phone calling in, you can use a guest to chat no need to login

**Aram**

Hi, Aram from Charlottesville VA

no just login as a guest

**Sarah Hugus**

sound on now!

**JoeW from Odessa, Tx**

if i lost sound, is that on my end?

**Janet**

It's not working on my iPad and I only have video on my PC Help

**Polly McWilliams**

I can't hear you now

**Sue**

Sue from Chicago area

**Sarah Hugus**

I had it now I don't

**Amy**

Amy

**Mike Boston**

Douglas UCC West Michigan

yes, sound is good on my end

**Lana Johnson**

St. Mary's Episcopal Church, Eugene, Oregon

**Susan Coghill**

FPC in Ashland OR

**Johh**

John

**Steven Crow**

Steve from Long Beach. No sound

**Rachel**

Madison Avenue Christian church, Covington, KY

**Daniel Bringman**

Daniel Bringman St James Lutheran Church Gettysburg PA

**Cannot hear you**

Cannot hear you

**Paul Schaefer**

Paul Schaefer

**Amy**

Amy with Blowing Rock Conference Center in NC. A UCC facility

**Polly McWilliams**

Grace UCC O'Fallon, no sound!

**Gary**

First Christian Church, Panora, IA

**Sarah Hugus**

Sarah Boca Raton UCC "Church on the Hill"

**Jean Hawkes**

Hope United Church of Christ, Rockledge, FL

Janet if your on an ipad you may need to download vimeo app

**Paul Schaefer**

FCCS Sutton MA

should be free

**Kati Arp St. Paul's Episcopal Church, Salem, OR**

Kati Arp

**Leah Darice Elrod**

United Faith Church,

**Johh**

John First Congregational Church of Winter Park Fl

**Kati Arp St. Paul's Episcopal Church, Salem, OR**

St. Paul

**Janet**

OK on ipad now.

**Phyllis Jones**

Phyllis Jones, Episcopal Diocese of New Jersey, Trenton, NJ

**Leah Darice Elrod**

United Faith Church, Sidney, IA

**Kati Arp St. Paul's Episcopal Church, Salem, OR**

Salem, Oregon

just login as a guest.

**Polly McWilliams**

I did

**JoeW from Odessa, Tx**

My sound has cut out. Will the video be posted after so I can watch?

**Ronald Snyder**

Ron Snyder

**Karen Densmore**

yes

yes, this will be posted today

**Johh**

How important is the F I E count. Many of part time employees are salaried and therefore we don't know how many hours they work

**Leah Darice Elrod**

Leah Elrod - United Faith Church, Sidney, IA

**Polly McWilliams**

Sign in again? Where?

**Michelle May**

Michelle May, First Congregational Church, Natick, MA

Yes the video will be posted afterwards

**Andrew Shipley**

Andrew Shipley, Missiongathering CC(DOC) Charlotte, and the Missiongathering Church Planting movement International

**JoeW from Odessa, Tx**

Joe Weaks, Connection Christian Church, Odessa, Tx

**Michael Weidemann, St. Philip Lutheran Church, Glenview, IL:**

Audio phrases keep repeating.

**Steven Crow**

Steve--can't find a way to get audio

**Michelle May**

Question regarding the payroll Expenses - why can we not include FICA on the PPP application (Michelle May, First Congregational Church, Natick, MA)

**Jesse Davis**

How are nonprofits to fill in the portions of the PPP application that refer to "owners"? Nonprofits and churches do not have "owners". Thanks - Jesse Davis, Vermont Conference, UCC

**Michael Weidemann, St. Philip Lutheran Church, Glenview, IL:**

Can you fix the audio?

**Jean Hawkes**

Are part-time pastors included? Does payroll include their housing allowance?

**Kaitlin Kowalec**

Hi, this is Kaitlin Kowalec administrative assistant with the Metro NY Synod. I had a Pastor email me this morning asking "how it works if we choose NOT to continue to pay our employees but instead ask them to apply for

**Rachel Withington Cornwall Presbyterian Church NY**

Does payroll costs include housing allowance?

**Sarah Hugus**

no sound

the audio is working. at the bottom left hand corner there are red bars. make sure your volume is up.

**Deborah Tyler**

Pastor Deborah, Community UCC, Elkhart Lake, WI. My question is will housing allowances be covered in the program

sorry bottom right handcorner

Steven Crow there should be an audio bar at the bottom that you can turn up

**Dean Rocco**

Hi, John. For CARES Act qualification, you just count FTE and PTE together - no need to worry about how many hours they work. If you have under 500, you qualify. We'll talk about "affiliation rules" towards the end of the

**Leah Darice Elrod**

For those who may not need their individual check, can these be donated to churches or non-profits?

**Steven Crow**

done with red bars. Nothing

**Michael Weidemann, St. Philip Lutheran Church, Glenview, IL:**

Problem is it keeps stopping and starting, phrases repeat.

Michael try refreshing your browser

**Johh**

Got to settings on your laptop and search for Sound. Be sure speakers is selected if you are not using headphones

**Monica**

Reducing the quality of the video may help with video lag, as well

**Michael Weidemann, St. Philip Lutheran Church, Glenview, IL:**

Video freezes, too.

**Dorinda**

Audio fading in and out.

**Carol Harpster**

Carol Harpster Glen Ridge Congregational Church Glen Ridge NJ Presentation will be available for download if that helps anyone having difficulties.

**Rachel**

Having no issues with video streaming :)

**Leah Darice Elrod**

we in the midwest are concerned that the loans may be all used up in a few days, before midwest applications are considered

For any experiencing problems this will be posted again. If experiencing audio or video troubles, try reducing the playback quality to 720p or less Or refreshing the page.

**Dean Rocco**

Hi, Michelle. The PPP program anticipates payments of payroll costs, including STATE taxes. It does not include federal taxes. It's just a function of how the law was written.

**Tricia Tedrow, Stated Clerk Mission Presbytery**

Was told by the bank that we had to have a checking account with them by April 1st. Is this part of the federal guidelines or was that the bank's decision? (We have account with them, but not checking.)

**Sarahbeth Larrimore**

Any info on what to do when your bank says it was required to give loans out to folks and it now has no loan option left for you

**Johh**

That is a bank rule; not part of PPP

**Aram**

How long is today's webinar and will we receive an email w/the link for download?

**Dean Rocco**

Hi, Jesse. Good question re: ownership. Most churches won't have "owners" as defined by the CARES Act. So, you wouldn't identify them. We'll talk about this towards the end of the program.

**Jesse Davis**

Great, thanks Dean

Aram the webinar is about an hour and 15min and it Will be available to view again after this live stream

**Sarah Hugus**

720 work I can hear!

**Aram**

THANK YOU!

**Jean Hawkes**

How do you add in utility cost on application form - only mentions payroll?

Good to hear Sarah

**Johh**

Utility does not go on application

**Gary**

What about housing allowance???

**Johh**

Utility is accounted for in the 2.5 multiplier on wages

**Tara Olsen Allen**

for clergy salary, is housing allowance included?

**Amy**

I read that many banks have cut off receiving further PPP applications as they have been swamped. Wells Fargo was one bank. Another bank put a requirement that you had to have a credit account with them. If you haven't

**Dean Rocco**

Hi, Kaitlin. If you choose to lay off employees, you can do so. You would direct them to your state agency that manages unemployment. Doing so could impact your ability to get forgiveness under the PPP program.

**Ted A Waggoner**

Ted

**Anne**

is this based on before taxes for salaries and wages

**Kati Arp St. Paul's Episcopal Church, Salem, OR**

What if you have some still working and want to use to pay the part time people?

**Johh**

Wells Fargo is limited by a lawsuit settlement with the Federal Reserve.

**Michelle May**

Will housing be included? Does the \$100,000 include salary, taxes, and benefits? (Michelle May, First Congregational Church, Natick, MA)

**Ted A Waggoner**

Ted, does wages include the earnings of owners in sole proprietorships or partnerships?

**Kaitlin Kowalec**

Thank Mr. Rocco, I had told this Pastor very similar to what you said, I'm glad that was correct. Thank you.

**Rachel Withington Cornwall Presbyterian Church NY**

can we use the loan proceeds to do retroactive pay for employees that had reduced pay since beginning of March?

**Anne**

utilities -are they figured in at 2.5 times the or just the actual utilites

**Rev Gina**

Are clergy even eligible? My understanding from the other COVID19 relief act--families first-- was that clergy were exempt

**Kathie**

what should you consider, when you are certifying your need

**Dean Rocco**

Hi, Leah. I understand there has been a large influx of applications. But, even with those reports, I'm only hearing about \$50B going in on the first few days. There's \$350B available under the program. So, I would continue to

**Johh**

Utilities can not be more than 25% of the usage of the loaned funds

**Janet**

Ditto Kathy's question

**Eric Donahoe**

What if you have assets and don't need the money to retain employees do you still qualify for this free "money".

**Johh**

You self certify the need

**Janet**

Ditto Eric re "need"

**Dean Rocco**

Hi, Tricia. The CARES Act does not require a prior relationship with the banking institution through which you apply. That might be a particular lending institutions requirement. Check the SBA site for other institutions in your area.

**Diane Baldwin**

What counts as "origination" date

**Nancy Van Meter**

Asking for church in Maryland. How do we include minister's housing costs in the payroll costs, since they make up a significant chunk of what we pay each month.

**Tara Olsen Allen**

who do churches put as owners?

**Dean Rocco**

Hi, Sarahbeth. If your bank is saying they are "out of loans," it may be a function of their capacity or willingness to participate in the program (rather than a function of federal funding being gone). Check the SBA site and look for

**Rev Gina**

Tara, he said he was going to answer that towards the end of the presentation (p.s. Hi!)

**Kaitlin Kowalec**

Are churches able to apply for EIDL and the PPP?

**Johh**

Senator Rubio of FL who wrote the bill is asking for another \$250B to added to the pot

**Dean Rocco**

Hi, Jean. The loan amount is based upon defined payroll costs. Once received, you can use part of it for utility/rent.

**Tara Olsen Allen**

Hi Gina! TJnx!

**Eric Donahoe**

Yes, that is on the application but some argue that even if you have assets and don't currently need the money to pay employees what about down the road when the assets we currently have may not be there? This is something

**Tara Olsen Allen**

Thanks!

**Rev. John J. Ward-Diorio; St. Paul's U**

Is the first part of the program being repeated?

**Jean Doyle**

Using the loan to pay the mortgage. Is that just interest or principal and interest?

**Rich connelly**

Leverett (MA) Congregational Church. Can pay salaries from endowment. PPP eligible?

We will make the video available after this livestream Rev, John

**George**

Is interest on PPP loans also forgiven. I thought loan rate was 1% not 4%.

**Dean Rocco**

Hi, Kati. If you have turn-over (i.e. someone who was once on your payroll but was replaced by someone else), you can use the payroll costs for that prior employee to set the amount of the loan and then the proceeds of the loan to

**Mike Miller**

One of the conditions of PPP is that the applicant must certify that "Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant." Is there any clarification on what "necessary"

**Rev. John J. Ward-Diorio; St. Paul's U**

No I mean is the program being repeated right now?

**Kati Arp St. Paul's Episcopal Church, Salem, OR**

What if they were already on unemployment?

No im sorry it will not be repeated on this broadcast

**Nancy Van Meter**

Westmoreland UCC Church,

**Ted A Waggoner**

Forgiven loans are usually subject to 1099 and taxation. Are these funds taxable income? Ted waggoner, IN KY Conf. UCCs

**Jean Hawkes**

Should we still file the first quarter 941?

**Dean Rocco**

Hi, Rachel. To maintain forgivability, you should use the lion's share of the loan proceeds for payroll in the 8 weeks following the origination. I have not seen anything stating you can't make payments in that period that are  
It will be posted to rewatch very soon

**Dean Rocco**

However, I'd want to double check that before you roll it out.

**Eric Donahoe**

I have the same question as Mike Miller. It's a point of debate that even if you don't need the money now what about 6 months or a year from now if you're assts start being depleted.

**Nancy Van Meter**

westmoreland UCC Church in Bettesda, MD. How do we calculate housing allowance when we put together total payroll?

**Dean Rocco**

A few questions on "utilities" or mortgage/rent. You use payroll to set the loan amount; then you can use proceeds to pay payroll and those other costs. Again, try to follow the guidance and keep payroll around 75% of the

**Dean Rocco**

Hi, Rev. The PPP loans are available for religious organizations.

**Dean Rocco**

Hi, Kathie. Stay tuned on "need." We'll talk about what you need to certify.

**Leah Darice Elrod**

I understand that under the CARES act, Individuals can make a gift of up to \$300 to a non-profit, and this is 100% tax deductible. Will that donation be included in the standard deduction, or is this above and beyond the standard?

**Dean Rocco**

Hi, Eric. Stay tuned when we talk about certifying the need for the PPP loans. If you can do that, you can apply. If not, you would not qualify.

**George Hulme**

has the content stopped playing ?

**Tara Olsen Allen**

no, still talking

The audio and video are still playing with no issues.

**Linda s**

mine is frozen

**Dean Rocco**

Hi, Rev. Ward-Diorio. We aren't necessarily repeating parts of the program, but it will be available online for you to rewatch or catch parts you might have missed.

**Janet**

We have several part-time (like 2 hours per week) employees. Makes it difficult to calculate fte's to put on app and then to calc later to show that we haven't reduced. Any guidance?

Linda S try refreshing your page

**Christopher Hayes**

I believe only mortgage INTEREST is forgivable, not principal

**Dean Rocco**

Hi, Rich. We'd have to look at the structure of an endowment paying certain folks salaries. A non-profit organization may be able to apply.

**Dean Rocco**

Hi, George. The interest rate applies to the part of the loan that is not forgiven.

**Don Fenestre-Marek**

thank you for hosting this session; very helpful

**Andrew Millar**

is there a prohibition on an employee who has been made redundant then volunteering their services?

**Sarah Hugus**

great information

**Dean Rocco**

Hi, folks. Quick related thought...make sure your application is complete before you submit it. Those applications which are incomplete will not be processed.

**Dean Rocco**

Hi, Natl. If loans are already paid off and on unemployment, you can bring them back before the deadline and still qualify for loan forgiveness

**Dean Rocco**

The forgivable loans are not taxed as income.

**Eric Donahoe**

Thank you. Will continue listening and hopefully get clarification on this "need" question. My argument to our board is we don't need the ,ones and should not apply. Other board members disagree.

**Daniel Bringman**

They may not want to come back if they are making more on unemployment then they would get when employed  
there is an update at the end of today's broadcast. this info was recorded on Monday due to new info over the weekend

**Debbie Ossiander**

Debbie, Alaska, Presby. Church...

**St. Luke's United Church of Christ**

Are 1009 and part-time employees included for payroll calculation?

**St. Luke's United Church of Christ**

**Dean Rocco**

Hi, Leah. I would consult your accountant about deductibility for an individual's gifts.

**Johh**

No, 1099 are not included

**Debbie Ossiander**

I understand part time employees hours can be added together and used cumulatively so they can be used to make up a 30 hr/wk employee

**Rev. John J. Ward-Diorio; St. Paul's U**

I thanks for trying to answer. I am hearing the first part of the presentation on a loop. It is going through for the third time now

**Gary Schulte**

What kind of accounting will be required to document to the feds how the money was used?

**Janet**

If 1099, you didn't treat them as an employee, so probably not included

Rev John try refreshing the page

**Nancy Van Meter**

Nancy Van Meter from Westmoreland UCC Church in Bethesda, MD. Will you be addressing the housing allowance question on the webinar or in the chat section?

**Tara Olsen Allen**

Are you going to address churches, clergy and 501 c 3s?

**Janet**

I've seen documentation from both DOC and UCC that says housing allowances aren't excluded so therefore, they should be allowable

Tara, yes an update was added addressing Churches

**Johh**

Our lender says include housing

Nancy, dean is looking to address shortly.

**Janet**

Is he going to address ownership and "need" at the end?

**Dean Rocco**

Hi, all. Lots of questions on whether housing costs can be included in the "payroll" costs to set the loan or would be included in "payroll costs" to be forgivable.

**Janet**

Banker told me that the only risk of certifying our need is that the Feds disagree and it ends up not being forgiven. Would like to know if Dean agrees

**Dean Rocco**

The guidance does not expressly address this, but says payroll costs include compensation in the form of salary, wages, commissions or "similar compensation."

**Val baumann**

Do the loan provisions apply to churches with fewer than 500 employees?

there is an update at the end of today's broadcast. this info was recorded on Monday due to new info over the weekend

**Janet**

I thought housing would be included in both loan amount and amount spent to drive forgiveness

**Dean Rocco**

If your payment of housing is structured as part of compensation, an argument can be made that it can and should be included. If not, it may not be viewed by the Administration as a payroll cost.

**Nicole Grant Yonkman**

If churches do not have unemployment insurance, are their employees eligible to participate in the Unemployment extensions and other related benefits?

**Melissa Stephens**

There is an echo in the audio

**Dean Rocco**

I note that housing costs are not included in the express list of things that are excluded from "payroll costs" (e.g. compensation outside the U.S.)

**Michelle May**

Are payroll taxes and benefits part of the \$100K cap? (Michelle May, First Congregational Church, Natick, MA)

**Tim Brown Cornish, Me. UCC**

I'm hearing an echo on the broadcast

**Scott**

audio problems? echo?

**Heidi Harmon**

There is a terrible echo!

**Lana Johnson, St. Mary's Episcopal Church Eugene Oregon**

I'm hearing the echo too

**Tricia Tedrow, Stated Clerk Mission Presbytery**

Also hearing the echo

**FCCBC**

Major audio issues...echoing...

**Rachel**

Same

**Johh**

yes echo

**Tara Olsen Allen**

yup

**Lisa Baker**

same

**Linda McKiernan-Allen**

yes, echoing...

**Rachel Withington Cornwall Presbyterian Church NY**

yup echoing....

**Deborah Bernard**

Deb Bernard, First Presbyterian Church, Bellingham, WA...yes, I hear the echo too. I refreshed but it did not fix the audio

**Aram**

yodel yodel mode, folks

**Andrew Millar**

audio loop

**Rachel**

It's like the same dialogue being played but on a delay

**William Sanford**

Dean, your comment on 1099 "employees."

**Anne**

audio is getting worse

**St. Luke's United Church of Christ**

We employ 1 part-time employee that works 24 hours a week. Can this be included in the loan amount?

**Melissa Stephens**

Can't understand the audio

**Andrew Millar**

your losing us with the audio

**Gary Schulte**

What about accounting required for the Feds. How much accounting is required?

**Dean Rocco**

Hi, Nichole. We will address this specifically in a moment, but yes, employees of Churches can participate in the Pandemic Unemployment Benefit program. Refer your folks to your State unemployment department.  
sorry for the video and audio issues, Our Hosting services are having reported problems. Insurance Board will send out a link to a recording of this broadcast.  
sorry for the video and audio issues, Our Hosting services are having reported problems. Insurance Board will send out a link to a recording of this broadcast.

**Dean Rocco**

Hi, Michelle. The cap on payroll costs is for anything in excess of \$100K of compensation. I have not seen anything saying you include the taxes on that amount.

**Michelle May**

Thank you - however, I assume it does include benefits

**Dean Rocco**

Hi, St. Luke's folks. Yes, you can include a part-time employee that only works 24 hours/week. Their payroll cost go in with your other payroll costs.

**Andrew Millar**

So, pastors who are given 1099s there is a big question as to whether or not they can be counted into the loan to cover employee pay?

The Video has stopped - The Chat feature is still active and Dean will continue to answer questions.

**Dean Rocco**

Hi, all. I'll stay online and keep answering questions. Sounds like there's an issue with the broadcast.

**Amy**

I have found this informative. Thank you for your time, Dean.

**Diane Baldwin**

is housing allowance included as payroll cost?

**Nancy Van Meter**

What would you recommend is needed to document payroll?

**Daniel Bringman**

thank you very much

**Dean Rocco**

Hi, all. There were lots of questions about certifying "necessity." If you watch the video towards the end of the program (I understand we're reposting it to avoid the broadcast issue), it covers it.

**mark**

So a church can apply for the PPP even if they do not have secular activities?

**Thayer Chaney**

Does the PPP include the housing allowance paid to clergy?

**Dean Rocco**

But, in short, you have to certify that there is a need based upon "current economic uncertainty."

**Lynn**

Will a link to the slides be provided here or via email?

**Tara Olsen Allen**

How do we certify the need?

**Janet**

So, interpret that for us. What if you have reserves but current receipts are down

**Dean Rocco**

This doesn't mean that you currently need the money but you would need to certify that you believe, in good faith, that you will need them to support ongoing operations.

**Tara Olsen Allen**

exactly

**Debbie Ossiander**

Debbie, Alaska application seemed to indicate employees need to be at least 30 hour/wk. Can we add multiple part timers to get to that?

**Linda**

Is there a timetable from when you submit a request for a loan until the time where the funds will be available?

**Michelle May**

The broadcast was helpful - thank you. I just want to clarify that payroll compensation and benefits (such as health care and annuities) are counted toward the \$100K cap. What about 1099 amounts - can those be included in the

**Cynthia**

I would like to see the PPP screen you showed at the beginning please.

**Tom Lee**

Regarding Churches and Unemployment compensation - most churches do not pay FUTA taxes so their employees are not eligible for unemployment compensation - but there is some vague language in the act allowing unemployment compensation for certain parties not normally covered.

**Dean Rocco**

Lots of questions about including independent contractors in the payroll costs for establishing the amount of the loan

**Brenda Pitonyak**

Regarding unemployment compensation, what if you are considered As-needed pandemic essential and are told you only need to work three days a week instead of usual five days. Are you eligible for unemployment, or do I have

**Janet**

How soon with the link be sent

**Dean Rocco**

The Act and it's guidance state "payroll costs" include compensation to employees. This would not preclude you from using loan proceeds to pay contractors, but again, it could impact your forgiveness.

**Sally Z , Princeton NJ**

Please add Closed Caption to video

**Brenda Pitonyak**

Brenda Pitonyak - state of Pennsylvania asked the question regarding unemployment and definition of As-needed pandemic essential

**Kathie**

Could you explain again the certification of need... and what circumstances we need to be in to apply?

**Rev. John J. Ward-Diorio**

We have a part time employee who is elsewhere now while his full time job is shut down. If we pay someone else to do his work, and bring him back on payroll when he returns, should that cover us for not lowering wages or letting

**Dean Rocco**

Hi, Brenda. For questions about UE for "essential workers," I would consult with your state unemployment agency. If a worker is in an essential industry, presumably they still have work available. So, they would not be

**john**

john

**Janet**

Do churches put N/A in the ownership section? Our banker said it would be our board members but I don't really want to put all those SSN's in the app

**Dean Rocco**

For workers who are not essential workers, or for any worker who is unable to work because of COVID-19, they should be able to enjoy some sort of benefit through your state programs.

**john**

John are Pastor salary covered and housing /utilites

**Sally Z , Princeton NJ**

Please make chat Q/A available in links so we can review the many questions and answers

**Dean Rocco**

Hi, Kathie. For certification of need, it's a self-certification on the application.

**William Yowler**

What type of taxes will the employees incur at the end of the year when they file for 2021? Do they need to keep some of the money back to cover possibly needing to pay?

**Dean Rocco**

You need to state you will use the funds for appropriate purposes, etc. However, the big questions surround necessity.

**Sarah Hugus**

thank you so much bye

**Livestreamer**

My bank says that a previous business loan is required. How can I get around that?

**Dean Rocco**

To that question, you need to certify that "current economic uncertainty make this loan request necessary to support ongoing operations." So, even if you can make payroll this week, you're not disqualified.

**Dean Rocco**

If you can, in good faith, state current economic uncertainty surrounding COVID-19 issues leave you believing you will need the funds, you can apply.

**Thayer Chaney**

Does PPP cover clergy housing allowance

**William Yowler**

With the additional \$600 the employees receive weekly do they pay taxes on that at the end of the year?

**Dean Rocco**

Hi, "Livestreamer." Statements by banks about requirements of prior banking relationships or needing checking accounts are specific to those banks. Those are not terms in the CARES Act. Check the SBA site for other lending

**Rev. John J. Ward-Diorio**

Thank you for the program. Stay safe. Be well. Take care. Peace, John

**Amy**

Will the \$600 a week unemployment supplement count towards income for those on ACA? This could affect the subsidy amount

**Dean Rocco**

Hi, William. My understanding is the forgiven loans are not taxed as income, but you should consult with your accountant or tax advisor to plan out your use of the program and it's impacts on your year-end taxes.

**Edward**

In the application for PPP it indicates to use a specified period from 2019 to calculate your payroll. Our 2020 payroll is more than 2019 when we had a PT pastor. Oct 2019 to present our payroll is FT pastor. May we use Jan 1 2020

**William Yowler**

Thank you we will. Very informative

**Janet**

Sorry to repeat myself again. What about the ownership question

**Dean Rocco**

Several questions about applying for the loan while you are experiencing turn-over and whether you can still use the funds

**Dean Rocco**

...You use a look-back method to establish your average payroll costs and set the amount of the loan. Once you receive it, you can use it in the 8 weeks following loan origination to pay payroll costs (and certain other expenses).

**Karen Densmore**

In the application for PPP it indicates to use a specified period from 2019 to calculate your payroll. Our 2020 payroll is more than 2019 when we had a PT pastor. Oct 2019 to present our payroll is FT pastor. May we use Jan 1 2020

**Dean Rocco**

...costs predominately (current guidance is 75%), you qualify for loan forgiveness. You do not have to match up the specific employees used to calculate the loan amount with the employees who receive the loan proceeds for

**Karen Densmore**

In the application for PPP it indicates to use a specified period from 2019 to calculate your payroll. Our 2020 payroll is more than 2019 when we had a PT pastor. Oct 2019 to present our payroll is FT pastor. May we use Jan 1 2020

**Dean Rocco**

Hi, George. Yes, CARES Act set the rates at 4%, but current SBA guidance states the loans will initially be set at 1%. I recommend you confirm the rate with your lender at the time of application.

**Dean Rocco**

A few questions about payments of mortgage interest vs. principle...

**Eric Donahoe**

Dean, thanks so much for this webinar. Look forward to getting the link for the recorded version so I can share with other members of our board of directors.

**Dean Rocco**

...As it relates to forgiveness, the forgivable uses are payroll costs, defined utility and rent payments and payments of interest on mortgage obligations.

**Edward**

Sorry to repeat. the PPP app indicates to use a specified period from 2019 to calculate your payroll. Our 2020 payroll is more than 2019 when we had a PT pastor. Oct 2019 to present our payroll is FT pastor. May we use Jan

**Dean Rocco**

Hi, Andrew. For "volunteers," they probably are not impacted by these programs. If the volunteers are truly, unpaid volunteers, they wouldn't factor into your payroll costs or be eligible for unemployment.

**Dean Rocco**

Just to answer a question that keeps popping up, you wouldn't include independent contractors' payments in figuring out your loan amount, but you would include part-time employees' pay.

**Dean Rocco**

Good question from Gary about what sort of documentation will be required to prove how the money was used...

**Dean Rocco**

**Dean Rocco**

...I recommend maintaining the same type and kind of documentation you use to submit the loan application (e.g. payroll reports) plus receipts for any payments of rent, utilities or mortgage interest to document the use of the loan

**Dean Rocco**

...while continuing to watch the SBA for more guidance.

**Dean Rocco**

Hi, Edwards. On calculating the eligible loan amount, the Act and its guidance provide formulas that you have to follow. It ends up effectively being an average of your last 12 months. Unfortunately, if you had a ramp up in more

**Dean Rocco**

...your average monthly payroll, you'll just end up with a lesser amount available in loan funds.

**Dean Rocco**

Hi, all. We've been going fast and furious for a bit. I think I captured most of the questions. Let me know if I missed yours. I'll hang out for a short while longer to see if we get any last questions.

**Lana Johnson, St. Mary's Episcopal Church Eugene Oregon**

Did I hear you say that nonprofits apply for PPP on April 10? Or is it April 3 like everybody else?

**Thayer Chaney**

Does PPP include clergy housing allowance?

**Edward**

Thanks Dean, truly helpful! Be well.

**Dean Rocco**

Businesses apply ASAP. The folks applying on April 10 are self-employed and independent contractors (which might include some of your pastors, etc.)).

**Lana Johnson, St. Mary's Episcopal Church Eugene Oregon**

Thank you very much for your help and expertise.

**Dean Rocco**

Hi, Thayer. The clergy housing is a bit of a "grey" area. The Act and guidance allow you to factor "compensation" into the loan amount. If you have housing structured as part of the clergy's compensation, it may be something we

**Thayer Chaney**

Thanks, Dean

**Dean Rocco**

...I would consult your state's wage and hour laws to see how they treat the housing component for your clergy's compensation arrangement

**Janet**

Ownership for churches?

**Dean Rocco**

Hi, Janet. My understanding is many of the churches are not going to have owners that need to be disclosed on the loan application

**Dean Rocco**

One thing we do talk about in the program, and I would encourage you all to go back and listen (it's towards the end of the program) is how to deal with affiliated religious organizations and whether you are counted with them or

**Karen Densmore**

If we laid off employees, do we need to back pay them for missed payrolls? or just restart them from now forward?

**Dean Rocco**

...the SBA has "affiliation rules" but specifically provides an exception for religious organizations who are associated with each other predominately because of shared faith reasons. The SBA's guidance on Faith-Based Organizations provides a sample "Addendum" you can use on...

**Dean Rocco**

...your application to make a claim to this exemption, so you can remain below the 500 employee threshold for eligibility

**Dean Rocco**

Hi, Karen. You just need to bring them back or bring lowered salary/pay back up by the deadline in June..

I am receiving numerous questions on the CARES Act, especially as it relates to forgivable small business loans and unemployment compensation for church employees. No regulations have been issued on these new laws yet, and thus interpretations are subject to change. This email summarizes provisions that will be of most interest to our churches.

The CARES Act includes the Paycheck Protection Loan Program, providing funding to small businesses and nonprofit organizations (under 500 employees) to cover up to 8 weeks of payroll and related costs, with such loan to be entirely forgiven if an employer maintains all of its employees and salaries during the period of time commencing February 15, 2020 through June 30, 2020. Loan proceeds may be used for payroll costs, employee salaries (with some exceptions for salaries in excess of 100k/year), commissions, costs related to group health care benefits (including sick, medical or family leave and insurance premiums), interest payments on mortgage obligations or other debt obligations incurred prior to February 15, 2020, rent and utilities. Under the language of the Act, churches and religious organizations are not excluded, and according to at least one Senator, churches may participate in this program. To qualify for forgiveness, employers must retain employees through a specified period of time and a few options are provided to the borrower as to how to calculate employees during that time period. There are also provisions relating to payroll tax delay and payroll tax credits for retaining employees if the business has closed due to COVID-19, but the credit will not apply to wages paid to clergy in exercise of their ministerial duties. Other loan programs are available to larger businesses (over 500 employees). This program is administered by the Small Business Administration (SBA) and more information can be found at [sba.gov](http://sba.gov).

The CARES Act also includes Pandemic Unemployment Assistance. This extends coverage to workers who are self-employed, seeking part-time employment (if permitted under state law), do not have sufficient work history, ***or otherwise would not qualify for regular unemployment under state or federal law*** and become unemployed or cannot find work due to COVID-19. This includes workers laid off from churches and religious institutions who may not be eligible under the state's program. Please see the attached CARES Act Unemployment Insurance Explainer, stating this. Churches which may normally be exempt from state unemployment requirements are covered under the CARES Act, but we do not know how States will administer this for those unemployed church workers. It is not clear how ministers will be treated under this program. Workers will only be eligible for PUA if they are unemployed for specified reasons relating to COVID-19. Unemployment will be administered by each state.



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**FREQUENTLY ASKED QUESTIONS  
REGARDING PARTICIPATION OF FAITH-BASED ORGANIZATIONS  
IN THE PAYCHECK PROTECTION PROGRAM (PPP)  
AND THE ECONOMIC INJURY DISASTER LOAN PROGRAM (EIDL)**

**1. Are faith-based organizations, including houses of worship, eligible to receive SBA loans under the PPP and EIDL programs?**

Yes, and we additionally clarify that faith-based organizations are eligible to receive SBA loans regardless of whether they provide secular social services. That is, no otherwise eligible organization will be disqualified from receiving a loan because of the religious nature, religious identity, or religious speech of the organization. The requirements in certain SBA regulations—13 C.F.R. §§ 120.110(k) and 123.301(g)—impermissibly exclude some religious entities. Because those regulations bar the participation of a class of potential recipients based solely on their religious status, SBA will decline to enforce these subsections and will propose amendments to conform those regulations to the Constitution. Although 13 C.F.R. § 120.110(a) states that nonprofit entities are ineligible for SBA business loans (which includes the PPP program), the CARES Act explicitly makes nonprofit entities eligible for the PPP program and it does so without regard to whether nonprofit entities provide secular social services.

**2. Are there any limitations on how faith-based organizations can use the PPP and EIDL loan money they receive?**

Only the same limitations that apply to all other recipients of these loans (such as that loan forgiveness will cover non-payroll costs only to a maximum of 25% of the total loan to a recipient). The PPP and EIDL loan programs are neutral, generally applicable loan programs that provide support for nonprofit organizations without regard to whether they are religious or secular. The CARES Act has provided those program funds as part of the efforts to respond to the economic dislocation threatened by the COVID-19 public health emergency. Under these circumstances, the Establishment Clause does not place any additional restrictions on how faith-based organizations may use the loan proceeds received through either the PPP or the EIDL loan program. See, e.g., [Religious Restrictions on Capital Financing for Historically Black Colleges and Universities](#), 43 Op. O.L.C. \_\_\_, \*7–15 (Aug. 15, 2019); [Authority of FEMA to Provide Disaster Assistance to Seattle Hebrew Academy](#), 26 Op. O.L.C. 114, 122–32 (2002). In addition, the CARES Act does not impose unique burdens or limitations on faith-based



organizations. In particular, loans under the program can be used to pay the salaries of ministers and other staff engaged in the religious mission of institutions.

**3. How will churches qualify if have not been informed of tax-exempt status by the IRS? Do organizations have to request and receive tax exempt status or just meet the requirements of 501(c)(3) status to be eligible?**

Churches (including temples, mosques, synagogues, and other houses of worship), integrated auxiliaries of churches, and conventions or associations of churches qualify for PPP and EIDL loans as long as they meet the requirements of Section 501(c)(3) of the Internal Revenue Code, and all other PPP and EIDL requirements. Such organizations are not required to apply to the IRS to receive tax-exempt status. See 26 U.S.C. § 508(c)(1)(A).

**4. Will my organization be sacrificing its autonomy or its First Amendment or statutory rights if it requests and receives a loan?**

No. Receipt of a loan through any SBA program does not (1) limit the authority of religious organizations to define the standards, responsibilities, and duties of membership; (2) limit the freedom of religious organizations to select individuals to perform work connected to that organization's religious exercise; nor (3) constitute waiver of any rights under federal law, including rights protecting religious autonomy and exercise under the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000b *et seq.*, Section 702 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-1(a), or the First Amendment.

Simply put, a faith-based organization that receives a loan will retain its independence, autonomy, right of expression, religious character, and authority over its governance, and no faith-based organization will be excluded from receiving funding because leadership with, membership in, or employment by that organization is limited to persons who share its religious faith and practice.

**5. What legal requirements will be imposed on my organization as a result of our receipt of this Federal financial assistance? Will those requirements cease to apply when the loan is either repaid in full or forgiven?**

Receipt of a loan through any SBA program constitutes Federal financial assistance and carries with it the application of certain nondiscrimination obligations. Any legal obligations that you incur through your receipt of this loan are not permanent, and once the loan is paid or forgiven, those nondiscrimination obligations will no longer apply.



Consistent with certain federal nondiscrimination laws, SBA regulations provide that the recipient may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin with regard to goods, services, or accommodations offered. 13 C.F.R. § 113.3(a). But SBA regulations also make clear that these nondiscrimination requirements do not limit a faith-based entity's autonomy with respect to membership or employment decisions connected to its religious exercise. 13 CFR § 113.3-1(h). And as discussed in Question 4, SBA recognizes the various protections for religious freedom enshrined in the Constitution and federal law that are not altered or waived by receipt of Federal financial assistance.

SBA therefore clarifies that its regulations apply with respect to goods, services, or accommodations offered generally to the public by recipients of these loans, but not to a faith-based organization's ministry activities within its own faith community. For example, SBA's regulations will require a faith-based organization that operates a restaurant or thrift store open to the public to serve the public without regard to the protected traits listed above. But SBA's regulations do not apply to limit a faith-based organization's ability to distribute food or clothing exclusively to its own members or co-religionists. Indeed, SBA will not apply its nondiscrimination regulations in a way that imposes substantial burdens on the religious exercise of faith-based loan recipients, such as by applying those regulations to the performance of church ordinances, sacraments, or religious practices, unless such application is the least restrictive means of furthering a compelling governmental interest. Congress enacted the CARES Act to afford swift and sweeping stopgap relief to Americans who might otherwise lose their jobs or businesses because of the economic hardships wrought by the response to the COVID-19 public health emergency, and SBA has a compelling interest in fulfilling that mandate to provide assistance broadly.

#### **6. Is my faith-based organization disqualified from any SBA loan programs because it is affiliated with other faith-based organizations, such as a local diocese?**

Not necessarily. Under SBA's regulations, an affiliation may arise among entities in various ways, including from common ownership, common management, or identity of interest. 13 C.F.R. §§ 121.103 and 121.301. These regulations are applicable to applicants for PPP loans. (They also apply to the EIDL program when determining certain loan terms, although aggregating the number of employees of affiliated organizations does not affect eligibility for EIDL loans.) Some faith-based organizations likely would qualify as "affiliated" with other entities under the applicable affiliation rules. Entities that are affiliated according to SBA's affiliation rules must add up their employee numbers in determining whether they have 500 or fewer employees.

But regulations must be applied consistent with constitutional and statutory religious freedom protections. If the connection between your organization and another entity that would constitute an affiliation is based on a religious teaching or belief or is otherwise a part of the



exercise of religion, your organization qualifies for an exemption from the affiliation rules. For example, if your faith-based organization affiliates with another organization because of your organization's religious beliefs about church authority or internal constitution, or because the legal, financial, or other structural relationships between your organization and other organizations reflect an expression of such beliefs, your organization would qualify for the exemption. If, however, your faith-based organization is affiliated with other organizations solely for non-religious reasons, such as administrative convenience, then your organization would be subject to the affiliation rules. SBA will not assess, and will not permit participating lenders to assess, the reasonableness of the faith-based organization's good-faith determination that this exception applies.

**7. Does my faith-based organization need to apply for this exemption or include any documentation of its religious beliefs or practices to fall within this affiliation exemption?**

No specific process or detailed filing is necessary to claim the benefit of this exemption. If you believe that your organization qualifies for this exemption to the affiliation rules, you should submit with your loan application a separate sheet stating as much. That sheet may be identified as addendum A, and no further listing of the other organizations with which your organization is affiliated, or description of the relationship to those organizations, is required. You are not required to describe your religious beliefs.

A sample "Addendum A" is attached to this document, but you may choose to write your own. Your statement can be very simple.

**8. How do I know where my organization fits in SBA's size standards table? Should I use the table to determine whether my organization is a small business that is eligible to participate in the PPP program?**

SBA's size standards can be found at 13 CFR § 121.201. Under the CARES Act, a non-profit organization qualifies as small, and is eligible for assistance, if (1) it has no more than 500 employees or (2) the NAICS code associated with its primary industry has a higher employee-based size standard. Some industries—including "religious organizations"—are currently listed in the size standards table with a monetary cap on annual receipts rather than an employee-based size standards cap. For nonprofit organizations whose primary industry is listed with a monetary cap on annual receipts, the size standards table therefore cannot be used to determine eligibility for the PPP program. Faith-based nonprofit organizations that do not fall under a primary industry that is listed with an employee-based size standard must have 500 employees or fewer to be considered small.



[Sample]

**ADDENDUM A**

- ✓ The Applicant claims an exemption from all SBA affiliation rules applicable to Paycheck Protection Program loan eligibility because the Applicant has made a reasonable, good faith determination that the Applicant qualifies for a religious exemption under 13 C.F.R. 121.103(b)(10), which says that “[t]he relationship of a faith-based organization to another organization is not considered an affiliation with the other organization . . . if the relationship is based on a religious teaching or belief or otherwise constitutes a part of the exercise of religion.”

# ChurchLaw&Tax

LEAD YOUR MINISTRY WITH CONFIDENCE

The following article is located at: <https://www.churchlawandtax.com/web/2020/march/what-cares-act-means-for-churches-and-church-staff.html>

## What the CARES Act Means for Churches and Church Staff [Exclusive Online, March, 2020](#)

How to navigate the government's \$2.2 trillion stimulus plan responding to COVID-19's economic fallout.

[ posted 3/29/2020 ]



The 900-page, \$2.2 trillion *Coronavirus Aid, Relief, and Economic Security (CARES) Act* became law on March 27, 2020. It is the third package enacted by Congress in response to the COVID-19 (coronavirus) outbreak. It follows:

### 1. The Coronavirus Preparedness

and Response Supplemental Appropriations Act (March 6, 2020), which provided \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak.

### 2. The [Families First Coronavirus Response Act](#)

(March 18, 2020), which requires certain employers, including churches, to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. These provisions, which can be [fully reimbursed](#) by the government, will apply from April 1, 2020, through December 31, 2020.

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**Join Richard Hammar on Thursday, April 2, 2020, for a free, one-hour webinar (open to the public) on key provisions of the CARES Act. [Register now.](#)**

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**Key point.** Some members of Congress are suggesting that a fourth package may be necessary.

Here is a summary of the provisions in the CARES Act most relevant to churches and church staff.

## Rebates and other individual provisions

- All US residents with adjusted gross income up to \$75,000 (\$150,000 married), who are not a dependent of another taxpayer and have a work eligible social security number, are eligible for the full \$1,200 (\$2,400 married) rebate. In addition, they are eligible for an additional \$500 per child. This is true even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as Supplemental Security Income (SSI) benefits.

A few clarifications:

- Any child who is a qualifying child for the purposes of the Child Tax Credit is also a qualifying child for the purposes of the recovery rebate. In general, a child is any dependent of a taxpayer under the age of 17.
- Individuals with \$0 of income are eligible for a rebate so long as they are not the dependent of another taxpayer and have a work-eligible Social Security Number.
- College students are eligible for a recovery rebate only if they are not considered a dependent of their parents. Generally, full-time college students under the age of 24 are considered a dependent if their parent(s) provide more than half of their support. Rebates sent via direct deposit will take a few weeks.
- Rebates sent via checks may take a few months.

**Key point.** For the vast majority of Americans, no action on their part will be required to receive a rebate check since the Internal Revenue Service (IRS) will use a taxpayer's 2019 tax return if filed (or their 2018 return if they haven't filed their 2019 return). This includes many individuals with very low income who file a tax return despite not owing any tax in order to take advantage of the refundable Earned Income Tax Credit and Child Tax Credit.

**Key point.** To illustrate, a family of four is eligible for a \$3,400 rebate.

**Key point.** The rebate is treated like other refundable tax credits, such as the child tax credit and earned income tax credit, and is not considered taxable income.

**Key point.** The rebate amount is reduced by \$5 for each \$100 that a taxpayer's adjusted gross income (AGI) exceeds the phase-out threshold. The threshold is \$75,000 for single taxpayers and \$150,000 for married persons filing jointly. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

- The CARES Act waives the 10-percent early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after January 1, 2020. In addition, income attributable to such distributions would be subject to tax over three years, and the taxpayer may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions.

**Key point.** A coronavirus-related distribution is one made to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

- The Act increases the amount available for personal loans from a qualified retirement plan from \$50,000 to \$100,000.
- The Act waives the required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020. This provision provides relief to individuals who would otherwise be required to withdraw funds from such retirement accounts during the economic slowdown due to COVID-19.

## Employee retention credit

This is a credit designed to prevent layoffs and keep workers on the job. Tax-exempt employers are eligible. This is how it works:

- Eligible employers are allowed a credit against employment taxes (FICA, income tax) for each quarter of 50 percent of the qualified wages of each employee (up to \$10,000) for such calendar quarter during the COVID-19 emergency.
- The fully refundable credit would be available to any business or non-profit that has a furloughed or reduced workforce as a result of a forced closure due to a federal, state or local government directive or as a result of quarantining of employees. The credit would also be available to any business that has seen a 50 percent drop in gross receipts when compared to the same quarter last year.
- The credit is capped at \$5,000 (maximum income of \$10,000 x 50 percent) and is refundable against payroll taxes.
- A special rule applies to eligible small employers (those with 100 employees or less) that provides a 50-percent credit for all wages paid, regardless of whether employees are furloughed or not.
- The credit would be available to businesses that do not receive Small Business Administration loans. Business owners would be able to choose whether an SBA loan or employee retention credit is better suited to their situation.
- The term “eligible employer” means any employer—(a) which was carrying on a trade or business during calendar year 2020, and (b) with respect to any calendar quarter, for which the operation of the trade or business is fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19.

**Key point.** The CARES Act provides that if an eligible employer receives a forgivable loan under the Paycheck Protection Program (see below) it is not eligible for the employee retention credit under this section.

## Paycheck Protection Program (PPP)

**Key point.** Most churches are unfamiliar with US Small Business Administration (SBA) loans, including the Paycheck Protection Program. For assistance, contact your nearest Small Business Development Center (SBDC). The SBA website [lists local centers](#).

The Act establishes a new SBA loan program called the Paycheck Protection Program for small employers (including nonprofits and churches) to help prevent workers from losing their jobs and small businesses from failing due to economic losses caused by the COVID-19 pandemic. Here is how it works:

- The program provides small businesses (500 employees or fewer) with federally guaranteed loans to cover payroll and other operating expenses.
- Loans are available from any lender approved to participate in SBA loans, as well as additional lenders approved by the US Department of the Treasury.
- To be eligible, the small employer must have been harmed by the pandemic between February 15, 2020, and June 30, 2020. The Act requires eligible borrowers to make a good-faith certification that (1) the loan is necessary due to the current economic conditions caused by COVID-19; (2) the funds will be used to retain workers and maintain payroll, lease, and utility payments; and (3) they are not receiving duplicative funds for the same uses from another SBA program.
- Principal amounts on the loan for the first eight-week period from the time the loan was made may be forgiven if used to pay:
  - compensation of less than \$100,000 (per employee)
  - payment of interest on any obligation
  - rent
  - utilities
- The amount of loan forgiveness is reduced based on an employer's decline in workers or wages (declines between February 15, 2020, and April 26, 2020, do not reduce the amount of loan forgiveness, but only if the employer returns to pre-decline levels by June 30, 2020).
- Any portion of a loan not forgiven is carried forward as an ongoing loan with a term of ten years at four percent interest.

- This program is retroactive to February 15, 2020, to help bring workers who may have already been laid off back onto payrolls. The loan period ends on June 30, 2020.
- The Act establishes the maximum loan amount of \$10 million through December 31, 2020, and provides a formula by which the loan amount is tied to payroll costs incurred by the business to determine the size of the loan.
- The Act allows complete deferment of loan payments for at least six months and not more than a year.

**Key point.** If an eligible employer receives an employee retention credit (see above), it is not eligible for the Paycheck Protection Program.

**Key point.** Because churches are eligible for the Paycheck Protection Program, this provision will likely be challenged in court as an unconstitutional establishment of religion in violation of the First Amendment. But note:

(1) Any legal challenge will be hampered by the fact that this program ends on December 31, 2020, and

(2) The United States Supreme Court has ruled that laws benefiting a wide range of secular nonprofit organizations are not rendered unconstitutional by the fact that religious organizations are included among the beneficiaries. To illustrate, in 1970 the Court upheld the constitutionality of a New York law exempting churches from property taxes, in part because property used for religious

Similarly, in 1989 the United States Supreme Court ruled that a Texas law exempting religious periodicals from state sales tax violated the First Amendment's nonestablishment of religion clause. *Texas Monthly, Inc. v. Bullock*, 109 S. Ct. 890 (1989). From 1984 until 1987 Texas law imposed a sales tax upon all periodicals except those "published or distributed by a religious faith and that consisted wholly of writings sacred to a religious faith." This law was challenged by a secular publisher, and the United

States Supreme Court agreed that the Texas law violated the First Amendment's ban on the establishment of religion.

But the Court stressed that “insofar as a tax exemption is conferred upon a wide array of nonsectarian groups as well as religious organizations in pursuit of some legitimate secular end, the fact that religious groups benefit incidentally does not [violate the First Amendment].” The court emphasized that if Texas chose to grant a tax exemption to “all groups that contributed to the community’s cultural, intellectual, and moral betterment, then the exemption for religious publications could be retained.” The court specifically ruled that a statute exempting organizations created for “religious, educational, or charitable purposes” from the payment of state sales tax would be a “model” exemption statute.

This precedent strongly suggests that any constitutional challenge to the inclusion of religious groups in the Paycheck Protection Loan Program will fail.

## Unemployment insurance provisions

- The Act creates a temporary Pandemic Unemployment Assistance program through December 31, 2020, to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency.

**Key point.** The application of this provision to church employees is unclear. State and federal laws [exempt from unemployment taxes](#) “service performed in the employ of a church, a convention or association of churches, or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled, or principally supported by a church or convention or association of churches.” Does the CARES Act’s temporary Pandemic Unemployment Assistance program apply to church employees on the ground that they “are not traditionally eligible for unemployment benefits”? This question needs clarification.

- The Act provides payment to states to reimburse nonprofits for half of the costs they incur through December 31, 2020, to pay unemployment benefits.
- The Act provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance for up to four months.
- The Act provides an additional 13 weeks of unemployment benefits through December 31, 2020, to help those who remain unemployed after weeks of state unemployment benefits are no longer available.
- The Act provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. This provision would pay 100 percent of the costs they incur in providing this short-time compensation through December 31, 2020.

## Charitable contributions

- The Act encourages Americans to contribute to churches and charitable organizations in 2020 by permitting them to deduct up to \$300 of cash contributions, whether they itemize their deductions or not.
- The Act increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 50 percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10 percent limitation is increased to 25 percent of taxable income.

## Payroll taxes

- The Act provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-

time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020, through December 31, 2020.

- The Act allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021, and the other half by December 31, 2022.

## Delay of certain deadlines

- The Act extends the April 15 filing date to July 15, giving individuals more time to file their tax returns given the limitations caused by the COVID-19 emergency. The filing date would be aligned with the extended payment filing date [already announced](#) by the IRS.
- The Act allows all individuals to postpone estimated tax payments due from the date of enactment until October 15, 2020. There is no cap on the amount of tax payments postponed, and any individual required to make estimated tax payments can take advantage of the postponement. This delay should increase the available cash flow for individuals experiencing cash shortfalls as a result of the COVID-19 emergency.

**Key point.** This provision is especially relevant to pastors who typically use the estimated tax procedure to prepay their federal taxes since they are exempt by law from income tax withholding.

## Education provisions

- The Act allows employers to provide a student loan repayment benefit to employees on a tax-free basis. Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The \$5,250 cap

applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

- The Act temporarily suspends payments for federal student loans held by the federal Department of Education through September 30, 2020, and interest is waived for the duration of the suspension. Only loans held by the federal Department of Education are eligible, including loans made under the federal William Ford Direct Loan Program, and some loans made under the Federal Family Education Loan Program (FFLEP).
- Generally, Pell grants are limited to 12 semesters. The CARES Act provides that the Secretary of Education shall exclude from a student's Federal Pell Grant duration limit any semester (or the equivalent) that the student does not complete due to a qualifying emergency.
- The CARE Act bars involuntary collections of student loans by offsetting an income tax refund or by other means.

## Foreclosure moratorium and forbearance

- Any homeowner who is experiencing financial hardship—and who possesses either an FHA, VA, USDA, 184/184A mortgage, or a mortgage backed by Fannie Mae or Freddie Mac—is eligible for up to six months' forbearance on their mortgage payments, with a possible extension for another six months. At the end of the forbearance, borrowers can work within each agency's existing programs to help them get back on track with payments, but they will have to pay missed payments at some point during the loan, so if borrowers can pay, they should continue to do so.
- Renters who have trouble paying rent also have protections under the bill if they live in a property that has a federal subsidy or federally backed loan. Owners of these properties cannot file evictions or charge fees for nonpayment of rent for 120 days following enactment of the bill, and cannot issue a renter a notice to leave the property before 150 days after enactment. After this period renters will be responsible for making payments and getting back on track, so they should continue to make payments if they're financially able to do so. Renters who receive housing subsidies, such as public housing or Section 8, and

who have had their incomes fall should recertify their incomes with their public housing agency or property owner because it may lower the rent they owe.

- The Act includes a 60-day foreclosure moratorium starting on March 18, 2020, for all federally backed mortgage loans. Borrowers with FHA, VA, USDA, or 184/184A loans, or loans backed by Fannie Mae and Freddie Mac, will not see foreclosure actions and cannot be removed from their homes due to foreclosure during that time.

## “Real ID” compliance

- Many Americans do not have a Real ID-compliant identification (which will be required to board commercial airlines) and are concerned about going to a crowded department of motor vehicle department before the October 1, 2020, deadline. There is no need to visit a DMV just to obtain a REAL ID by October 1, 2020, because the deadline was extended one year, until October 1, 2021.

## Utility shutoffs

Utility service is regulated by the states, rather than the federal government. Many states have ordered their utilities not to terminate service to customers during the crisis.

## Posters

The CARES Act does not require employers to post an explanatory notice. But the Families First Coronavirus Response Act (FFCRA) does. Here is what [FFCRA says](#):

- Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, of the requirements described in this Act.
- Not later than seven days after the date of enactment of this Act, the Secretary of Labor shall make publicly available a model of a notice that meets the requirements of [the law].

To obtain the FFCRA notice free of charge, contact the Department's Wage and Hour Division at 1-866-4-USWAGE (1-866-487-9243). Alternatively, churches may [download and print](#) the notice for free.

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CHRISTIANITY  TODAY

