

**THURSDAY  
MAILING**



**National Capital**  
P R E S B Y T E R Y  
MISSIONAL · PASTORAL · PROPHETIC

***April 2, 2020***



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[www.thepresbytery.org/covid-19/](http://www.thepresbytery.org/covid-19/)  
updated regularly



# Birthday Greetings for the month of **April**

Fay Acker  
Mark Armstrong  
David Bowerman  
Jean Coyle, HR  
Chris Deacon  
Lon Dring, HR  
Jeri Fields

Katherine Francis  
Walter Green  
Larry Greenslit, HR  
Barbara Heck  
Jerry Hopkins, HR  
Heemoon Lee  
Shawn MacDonald

Bob Melone  
Carol Morrison  
Kathleen Mulvihill, HR  
Ted Rosche, HR  
Elizabeth Guillan Walker, HR  
John Wimberly, HR

*From  
the staff of  
National Capital Presbytery  
debbie, jan, joan, john,  
lajuan, sara, tara, todd*



## Announcements

**ONLINE PULPIT SUPPLY LIST**- Joan Erickson, the administrator for the Commission on Ministry is putting together a list for **Online Pulpit Supply** for this time of social distancing. If you would like to be on that list, please reply with the following information:

Name:

Preferred Email:

Proficiency at Zoom:

Proficiency at GoToMeeting:

Proficiency at Facebook Live:

Proficiency at any other video sharing platform:

Willingness to drive to a site for livestreaming (while maintaining social distancing)

We hope in these unique and difficult times you might be able to offer your time, talent, and energy to support the ministry of our congregations. If interested send your information to [COMADMIN@thepresbytery.org](mailto:COMADMIN@thepresbytery.org). The list will be available from [www.thepresbytery.org/covid-19/](http://www.thepresbytery.org/covid-19/)

**Coaching Resources** – List of opportunities for coaching for members and congregations of National Capital Presbytery:

**Spiritual Formation Team of NCP will host a virtual (ZOOM) cohort for any church staff in NCP** who feel overwhelmed during this chaos and need support as they minister to their congregations. Shani McIlwain, SFT member, will serve as host to pose a question or two to keep the conversation constructive. Offered at no cost. Please use this link to schedule a time with Shani: <https://ministrytechhelp.as.me/schedule.php>

### **Need support? Someone's got your back**

Ministry these days is overwhelming, with new tech tools to learn, information to sort through, and an ever-shifting reality requiring leadership and care. Meanwhile our personal worries about family, community, and self are ever-present. **The NCP Coach Network** is here to walk alongside you. Our trained coaches can help you sort through the overwhelm, get unstuck, and develop a sustainable way forward. Many of our coaches are donating pro-bono services during this season of acute need. Need a single session? A weekly check-in? Fill out this form and you will be matched with a coach who's here to help. Use this link: <https://forms.gle/EtWSC7ULuP9bM2dQA>

## **Pastoral Concerns:**

### **Bush Hill Presbyterian Church:**

Grief. It is heavy. It slows everything down. We weep for our church member whose lungs just couldn't come back from the damage done by the coronavirus--no matter the extraordinary care the INOVA Fairfax, no matter our fiercest prayers. His death is a tragedy, not God's will. It is a personal tragedy at the beginning of global tragedy. Thank you for storming heaven with your prayers and your shares. Bob is now fully at home with God, and we are left to do our best to grieve in a time of social distancing, and this worsen the tragedy. Our only comfort is to share the grief and trust that love never ends. Lord, have mercy!

**The Rev. Becca Messman, co-pastor, Trinity Presbyterian Church, Herndon, VA:** My beautiful, brilliant and brave mom passed away on March 20th after a fierce battle with cancer. There was a small memorial service on Monday, March 23<sup>rd</sup> for immediate family, and a celebration of life at a later date. Thank you for your prayers, calls, emails and texts. There is so much more to say... especially about hospice nurses who are angels and oncologists who are miracle workers and neighbors, co-workers, and friends who have given us everything from hugs that feel like life rafts to actual toilet paper in a pandemic!!, but for now, our hearts are broken and yet overflowing with gratitude.

***Prayer for the Community***  
***Offered by Therese Taylor-Stinson, Elder, Northwood Presbyterian Church***

***Morning Prayer Psalm 90***

Lord, through all generations

You have been our strength and our home.

Before the mountains were born

Or the oceans were brought to life,

For all eternity, you are.

A thousand years in your sight

Are like yesterday when it passes.

You return our bodies to the dust

And snuff out our lives like a candleflame.

You hurry us away; we vanish

As suddenly as the grass:

In the morning it shoots up and flourishes,

In the evening it wilts and dies.

For our life dissolves like a vision

And fades into the air like a cloud.

We live here for seventy years,

Or eighty, if we are strong —

Years filled with pain and suffering;

They pass, and we fly away.

Teach us how short our time is;

Let us know it in the depths of our souls.

Show us that all things are transient,

As insubstantial as dreams,

And that after heaven and earth

Have vanished, there is only you.

Fill us in the morning with your wisdom;

Shine through us all our lives.

Let our hearts soon grow transparent

In the radiance of your love.

Show us how precious each day is;

Teach us to be fully here.

And let the work of our hands

Prosper, for a little while.

***–Translation adapted from Stephen Mitchell, A Book of Psalms***

***Prayer for the Community  
offered by the Rev. Judith Michaels, HR***

***An Interfaith Prayer in a Time of Pandemic***

Washing my hands, reminds me of the waters of Chautauqua Lake,

Which reminds me of the majestic tolling of the Miller Bell Tower,

Which reminds me of the many kinds of music that fills the air and our hearts,

Which reminds me of the laughter of children and the beauty of our gardens,

Which reminds me of the beauty of different faces, complexions, generations,

and faiths,

Which reminds me of dance and art, being challenged by different perspectives, and the restorative power of prayer.

Which reminds me of how sacred everything feels at our beloved Chautauqua,

Which reminds me to give thanks to the Holy One for all these blessings we share.

Be with us, Divine One, in this time of anxiety,

Comfort those who are infected, soothe all of us who are affected,

Strengthen and protect the medical caregivers,

Embolden our leaders with strength and wisdom,

Give us holy permission to do what is best in each moment, even if that's

“hunker down.”

Renew our hope for a world —

With less anxiety and more joy,

With less “me first,” and more “no, please, after you!”

With less fear, and more love.

And bring us safely home, back to the Chautauqua which was, and is,

and will be.

Amen.

—The Rt. Rev. V. Gene Robinson, Vice President of Religion and Senior Pastor  
Chautauqua Institution

March 18, 2020





April 2, 2020

Dear Partners in Ministry,

**How goes it with your soul?** This is the question John Wesley used to open each of his meetings. This simple question allows for the opportunity to go beyond the pleasantries of answering “how are you?”. It asks for a vulnerable examination of your heart. Over the past week I’ve been using this question as part of my morning prayer. It offers me a chance to uncover some of the fears and insecurities that I may have been repressing throughout the day as well as the joys that have gotten lost in the shuffle of two parents both trying to work at home, with two kids.

If you had a Lenten spiritual practice this year you might find yourself in this same boat. It got dropped. Probably for no good reason other than your life became hectic at a faster and higher rate than you might have expected. As we prepare to step into Holy Week, with all signs pointing to continuing our social distancing weeks beyond Easter, let us not allow the anxiety that seems to fill every molecule of air we breathe be the focus of our attention. May we all be reminded that we too still venture with Jesus towards the path of transformation and new life. A road that wasn’t easy 2,000 years ago and a road that isn’t easy in our current condition. We know this journey is best done with a heavy diet of prayer. Prayer that gives us strength in our suffering as well as opening our hearts to the suffering of others.

I share with you a spiritual practice that was brought to my attention by the Rev. Bernice Parker-Jones, pastor, Faith Presbyterian Church, Washington, DC.

*COVID-19 has left many people feeling isolated with diminishing faith and hope. The coronavirus is affecting our children, youth, and young adults, but it’s having an exponential impact on our senior population.*

*Single senior citizens are feeling isolated. Those in nursing homes and assisted living places are in forced self-quarantine with menus and food being left at their doors. Some are being advised that if they leave their facility, they can’t return until the COVID-19 crisis has ended. Understandably, all these measures are for their own good; nevertheless, it doesn’t relieve the pain of loneliness and sadness. We are all hurting from social distancing, but none like our seniors who live alone. I imagine they’re feeling helpless, perhaps even discouraged and abandoned. While some are able to gather using Zoom or other social media platforms, others do not have this luxury or know-how.*

*Our prayer is that God will soon restore us to a time when we can gather again in face-to-face fellowship with one another.*

*In the meantime, I would like to call everyone in our Presbytery to dedicate a time of fasting and communal prayer for strength and continued faith for all who are affected until this virus passes over. We are asking all of us to spend an hour each day (8:00 A.M. - 9:00 A.M.) praying Psalm 27 and to fast one meal a day (as much as your health allows) as we call upon our merciful and loving God for strength and courage to endure. Pray especially for the elderly who live alone. Pray for those who have lost love ones and are unable to say their last goodbyes. Pray for each other's spiritual, mental and physical strength and that we will keep the faith.*

Friends continue your good and faithful work. Offer yourselves and those around you an abundance of grace. Take stock of how it goes with your soul as you journey with Christ to and beyond the cross.

*John*

Visit [www.thepresbytery.org/covid-19/](http://www.thepresbytery.org/covid-19/)  
*Regularly for updated information*

**Clerks' Tip**  
**Session Records Review Spring 2020**  
*April 2, 2020*



Jan Moody and I (and the rest of the NCP staff, for that matter) have been praying and thinking about you and your churches during this dreadful period. And we have learned from many of you what is happening in your congregations. Over the past few years we have been hearing about the need to “do church differently” and we are being challenged to do that right now. NCP’s churches have risen to the challenge and devised myriad ways to do church differently. Whenever this ends, we will have learned a lot about our capacity to adapt and change.

One small thing that will change this spring is Session Records Review. The records review season is generally two fall records reviews, which we have done, and two spring records reviews, which we will not be able to do as scheduled. Jan and I discussed this. Options would be to schedule the spring reviews in the summer (but who knows when this will end), to ask clerks to self-report using the checklist, or to just cancel the spring reviews. ***We decided to cancel the spring reviews this year—so that those churches whose records were not reviewed in the fall of 2019 would have two years’ worth of reviews done during the next review cycle, Fall 2020-Spring 2021.***

Please be safe and social distance. Let me know if there is any help I can provide or any questions I can answer.

Yours in Christ,

Sara Coe, Stated Clerk  
[scoe@thepresbytery.org](mailto:scoe@thepresbytery.org)  
240-514-5352



Greetings People,

*How is your faith in all of this?*

A neighbor asked me this question last week. I immediately answered, “well and exhausted.” One does not negate the other.

Faith is seen and unseen. Such as taking our family to offer smiles and hospitality while people are served to-go meals at New York Avenue Presbyterian Church. And accepting the limitations that I cannot visit with folks the way I yearn to. I used to listen closely, so they did not have to yell, and I used to hold hands for personal prayer. The limitations cause me exhaustion.

Faith is like a mustard seed. Like keeping the expectations kind of low on our days of school-at-home and being surprised with the creativity that comes from our children as they navigate the new reality of school. Upholding the boundaries of a day and affirm the spontaneity that cracks through. It is exhausting.

We walk by Faith, not by sight. Thank goodness because guess what, y’all? I am vain about my hair and that sight will be #100! My faith is well. And I am exhausted.

A presence of connectedness is necessary from us now. And it is a kind of presence that was not part of my training. I am not sure, as an extrovert, how I can best offer my gifts?

We can do this. We all are doing this! And we are tired -- maybe of being constantly creative, responsive, and present in ways we have not before. We are tired because we must make different kinds of boundaries.

And yet this is us living into our Faith. Seen, unseen, small, and of hope.

Many colleagues are asking what about Holy Week? How do we do Holy Week and Easter? I am writing this for now: we are in Holy Week. I want rituals that help my children, my colleagues, and our churches let go of those things that don’t work because of a completely changed world. I want to grieve. I want to breathe.

Holy Week is not about a set time, it is about a presence of coming to terms with who we are and where we are. Holy Week is not about multiple services, it is about being reminded that our lives are not of our own making. Our lives are of God. Holy Week is not about palm branches, and shrouded crosses, and brass ensembles. It is about following the One who washes feet, who sacrifices for the sake of others, who asks us to do this in remembrance of him.

None of this is the complete story. Thanks be to God. My faith is present in the connected Body of Christ. No matter what is unseen and no matter how small. I need to stay mindful with others and pace our days. Because the mustard seed does grow into this wild huge bush, shrub, treelike living vessel of hope and life. New life rises out of death.

Peace and Courage,

Tara

Greetings!

I do hope you are all managing during our time of social distancing. I am creating a separate page on our website, under the COVID-19 section, of your HOLY WEEK SERVICES.

**The format:**

DIRECT LINK TO THE SERVICE. If you are using your website, have the “direct link” at the top of your page.

Name, Date and Time of service, list individually, if the link will be different, include it. Below is an example of the format I am using. *(you do not need to list the specifics of the service)*

**SAMPLE FORMAT:**

**Holy Week Online:** <https://www.youtube.com/channel/UCIDgr43oor55olOmKTnc1dQ>

**Palm Sunday Jazz Service, April 5, at 10:00 a.m.**

Featuring the Marty Nau Trio  
Live Stream on YouTube

**Maundy Thursday, April 9, 7:00 p.m.**

Rebroadcast of the Last Supper Play on YouTube  
“This Do In Remembrance of Me” by Carol Dulmes

**Good Friday, April 10, at Noon**

Live Stream Readings of the Trial and Crucifixion on YouTube  
by Pastor Rob and music by Gary Thomas  
Then at 7:00 p.m.

Rebroadcast on YouTube of the Tenebrae Service of Darkness  
by Hal H. Hopson performed by Heritage Choir under direction of Jeff Taylor, accompanied by Gary Thomas

**Easter Sunday Communion Service, April 12, at 10:00 a.m.**

We will share remotely in the Spirit of the Risen Christ Live Stream on YouTube

**Please** do not send paragraphs and/or bulletins. This will be cut and paste only. Thank you for your submissions. Looking forward to receiving your services! I have enjoyed my time with you on Sundays and I have found the online services beautifully done. This also includes our churches using teleconference.

Blessings,

LaJuan Quander

Director of Communication

[lquander@thepresbytery.org](mailto:lquander@thepresbytery.org)



***Caring for Community – Potomac Presbyterian Church,  
Potomac, MD***



**For I was hungry and you gave me food, I was thirsty and you gave me drink, I was a stranger and you welcomed me, I was naked and you clothed me, I was sick and you visited me, I was in prison and you came to me. Matthew 25:35-36**

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**Nourish Now Food Drive - this weekend (March 20 - 22)**

Last weekend we held a food drive for Nourish Now and delivered over 160 lbs of food. We will hold another food drive this weekend. *Nourish Now* is **in need of meat and poultry** to give to those in need during this COVID-19 outbreak. They need pantry/shelf staple items. We will host a second food item drive for meat, poultry & non-perishable food items. Please bring these items to Elder Marianne Beardall's home this weekend on the days and hours below. She will leave a cooler and bags at her front door to receive the items. Marianne will make sure the items get to *Nourish Now*. Thank you in advance for helping to stock *Nourish Now* shelves.

- Friday, 3/20, from 9-11:00am
- Saturday, 3/21, from 9-12:00pm
- Sunday, 3/22, from 9-11:00am & 4-6:00pm

## ***Caring for Community...***

### ***GEORGETOWN PRESBYTERIAN CHURCH, Washington, DC***

Over six years ago, churches in Georgetown came together to begin serving meals to our neighbors facing housing and food insecurity. That program has turned into two meals serving 80+ people every weekend, one meal served at Mt. Zion United Methodist Church, and other at Georgetown Presbyterian Church. More than meals, though, this program has become a community of unlikely neighbors. Since the beginning of the COVID-19 outbreak, we've worked together to think creatively about keeping guests and volunteers safe, while remaining committed to serving, particularly during these times that are so harrowing for those living on the margins. Our weekend sit-down meals have become to-go meals served outside, and we've shrunk our volunteer pool to minimize possible transmission, but meals are still being served. We're grateful to our neighborhood partners, and those working behind the scenes to make sandwiches, communicate with volunteers, and otherwise keep this essential ministry serving those most in need. *Submitted by, Associate Pastor for Mission, Rev. Chris Chatelaine-Samsen*





## **General Assembly??**

Many are understandably inquiring about plans for the 224th General Assembly, long planned to meet in Baltimore in late June. A number of options are being explored; as you might imagine, with circumstances changing almost by the hour, the process involves lots of information-gathering along with some waiting on developments, as a solution is sought that will most faithfully steward the church's resources.

At its virtual meeting on March 26, COGA made this statement:

The Committee on the Office of the General Assembly is meeting weekly and watching closely as information unfolds about COVID-19. The health and well-being of all involved in the 224th General Assembly are of the utmost importance. We are taking this time to evaluate all the options for GA and will share a decision with you no later than April 17th. One of the options is a fully virtual GA, with training provided for participants in advance.



**State of Maryland Interpretive Guidance on Stay at Home Order 20-03-30-01 suggests that employers who are permitted to stay open (to any degree) under the Order may wish to provide a letter to employees who must commute to and from work. The suggested content for the letter is the name and address of the employee, the name and address of the employer, the nature of the employee's work, a brief statement of why the employer remains open for business, and a signature and contact information for the employer. Here is a sample outline:**

To Whom It May Concern:

This letter affirms that [name and address of employee] is permitted to commute to and from work pursuant to Maryland Stay at Home Order 20-03-30-01. [Name of Employee] is an employee of [Name and address of Church], a nonessential business, and therefore is permitted, pursuant to the order, to travel between their home and business for the purpose of engaging in Minimal Operations

The church is closed to the general public, and [Employee] assists in remote care of members of the congregation, essential Church business, and the provision of remote religious services.

The Pastor of the Church, [name], can be reached at [telephone number and email]. The Clerk of Session, [name], can be reached at [telephone number and email].

Signed--Pastor or Clerk

***Below is a very broad summary of some provisions in recent Virginia and District of Columbia Orders that may pertain to churches and citations to some of the orders. All jurisdictions have COVID-19 websites where the Orders and other information can be accessed.***

**In Virginia, Stay at Home Executive Order 55** says that persons may leave home for the purpose of traveling to and from their residence, place of worship, or work. Executive Order 53 on Temporary Restrictions does not directly address churches but says "although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such business must adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities."

**In the District of Columbia, Mayor's Order 2020-53** does not directly address churches, but provides that businesses with facilities in DC, except Essential Businesses (which does not include churches) shall cease all activities at the facility except Minimum Business Operations. Minimum Business Operations are the minimum necessary activities to facilitate remote delivery of services formerly provided in person by the business. Mayor's Order 2020-53 (Stay at Home) says that persons can leave their homes for purposes of engaging in Minimum Business Operations.

## SUMMARY OF CARES ACT PROVISIONS

**Note:** This document briefly summarizes provisions in the Coronavirus Aid, Relief, and Economic Security Act (“the CARES Act”) that could possibly be of interest to church plans, ministries and plan members. This summary reflects those CARES Act provisions as they are currently understood on March 29, 2020, without any agency guidance. As guidance is issued that may be applicable, we plan to provide information to you on that guidance or to refer you to that guidance, but may not be able to update the summary with that information. This summary may be used by Church Alliance members as a basis for communications to ministries and plan members.

PROVISIONS DESCRIBED IN SUMMARY

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## **A. Paycheck Protection Program (“PPP”)**

### **Executive Summary**

PPP loan program is designed to keep small businesses, including qualifying non-profit organizations, afloat during mandated Coronavirus Disease 2019 (“COVID-19”) related closures.

This new loan program is based on the existing general business loan program of the Small Business Association (“SBA”) and will make potentially forgivable loans available to qualifying small businesses. The loan program is known as the “7(a)” program and not based on the SBA disaster loan program.

Additional detail will be provided as the SBA drafts implementing regulations, which the CARES Act requires to occur within 15 days.

### **Eligibility**

Most non-profit organizations, that generally have less than 500 employees, are eligible to apply. Select non-profit organizations with more than 500 employees may qualify if the organization has an employee headcount less than the employee size standard, if any, under the applicable NAICS Code.

In evaluating eligibility for such loans, lenders are to consider: (1) whether the borrower was operational on February 15th, and (2) whether the borrower was paying salaries and payroll taxes on independent contractors at that time.

The SBA affiliation rules will be applied to non-profit organizations in the same way as they are applied to small businesses. Under these rules, generally the SBA considers whether organizations control or are controlled by another organization.

### **Borrowing Limits**

The CARES Act appropriated \$349 billion for loans under this program. The maximum PPP loan available to any company is \$10 million or, if less, 2.5 times the average monthly payroll costs of the company over the year prior to the making of the loan, excluding any annual compensation above \$100,000 for any person, prorated for February 15 through June 30, 2020.

Note: Under the CARES Act, “payroll costs” include payments for vacation, parental, family, medical, and sick leave; allowances for dismissal or separation; group health care benefits (including insurance premiums); retirement benefits; and State or local tax assessed on the compensation of employees, as well as payments of any compensation to an independent contractor that are wages, income, earnings from self-employment or similar compensation.

### **Use of Proceeds**

PPP loan proceeds may be used for:

- Payroll costs, excluding the prorated portion of any compensation above \$100,000 per year for any person
- Mortgage interest and rent payments
- Utilities
- Interest on debt that existed as of February 15, 2020

## **Terms**

PPP loans bear interest at a maximum rate of 4% and mature no later than 10 years after determination of the amount, if any, to be forgiven. Payments under PPP loans may be deferred for 6–12 months, and the SBA is directed to issue guidance on the terms of this deferral. PPP loans have no collateral or personal-guarantee requirements.

## **Loan Forgiveness**

PPP loans can be forgiven to the extent that the loan proceeds have been used for the following costs incurred and payments made during the eight-week period after the loan is made:

- Payroll costs, excluding the prorated portion of any compensation above \$100,000 per year for any person
- Mortgage interest (but not prepayments or principal payments) and rent payments, on mortgages and leases in existence before February 15, 2020
- Certain utilities, including electricity, gas, water, transportation, and phone and Internet access for service that began before February 15, 2020

### **Caveats:**

- The amount forgiven is reduced based on failure to maintain the average number of full-time equivalent employees versus the period from either February 15, 2019, through June 30, 2019, or January 1, 2020, through February 29, 2020, as selected by the borrower.
- The amount forgiven is also reduced to the extent that compensation for any individual making less than \$100,000 per year is reduced by more than 25% measured against the most recent full quarter.
- Reductions in the number of employees or compensation occurring between February 15, 2020, and 30 days after enactment of the CARES Act will generally be ignored to the extent reversed by June 30, 2020.
- Under the language of the CARES Act, there is no exclusion for churches and other religious organizations (collectively referred to herein as “religious organizations”). According to information from Sen. James Lankford’s office, religious organizations may participate in this loan program. It is unclear at this time whether participation in this program may result in the borrower being considered a recipient of federal funds, which may cause the borrower to be subject to federal laws to which it would otherwise not be subject. The Church Alliance will be advocating with the SBA to make this program as beneficial as possible for religious organizations.

## **B. Provisions to Help Employers with Payroll Taxes**

The CARES Act includes two provisions related to employment (payroll) taxes, which are intended to encourage employers to retain employees and to smooth cash flow concerns related to remission of payroll taxes to the Internal Revenue Service (“IRS”).

### **a. Payroll Taxes Delay**

The CARES Act creates a “payroll tax deferral period” running from March 27, 2020 through the end of 2020. Employers (and self-employed individuals as explained below) may 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% Social Security tax on

employee wages. For religious organization employers this is generally limited to Social Security taxes on the wages of lay (non-clergy) employees.

It is important to understand that this is not a payroll tax holiday, but a postponement; the 2020 taxes deferred must be paid in the following two years (2021 and 2022). This is intended to allow employers to spread these payroll tax costs over time, which may free up existing cash and other assets to continue to fund essential operations, pay wages, and provide employee benefits. The deferred payroll taxes must 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.

Please note, this payroll tax deferral program will not be available to any organization that has had a PPP loan forgiven. Until guidance is issued, the safest course would be to refrain from deferring payroll taxes, if the organization will be seeking to obtain a PPP loan and have it forgiven.

The CARES Act also allows self-employed individuals to defer payment of part of the Social Security taxes they would otherwise owe the IRS. By statute, clergy are considered self-employed for employment tax purposes, generally paying self-employment (“SECA”) taxes instead of sharing the payment of Social Security taxes with their employers. This provision in the CARES Act would allow clergy to defer paying the employer portion of Social Security taxes (6.2%) but they would still have to timely pay the employee share (also 6.2%) of Social Security taxes as part of their SECA tax payments. The deferred Social Security self-employment taxes must 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.

## **b. Employee Retention Credit for Employers Subject to Closure Due to COVID-19**

### **Summary**

Employers can receive a refundable credit against applicable employment taxes of up to \$5,000 per employee in 2020.

Employers with 100 or fewer full-time employees (measured by average employment in 2019) – this credit applies if the employer fully or partially suspends operations due to an order from a government authority or if the employer experiences a decline in revenue for any calendar quarter in 2020 of 50% or more compared to the same calendar quarter in 2019. All qualifying wages count towards this credit, whether employees are working or not.

Employers with more than 100 full-time employees (measured by average employment in 2019) – the same conditions apply as for employers with 100 or fewer employees described above, but the credit only applies to qualifying wages paid to employees who are not working.

### **Credit Amount**

50% of qualified wages (see bullets below) paid to an employee on or after March 13, 2020 (and before January 1, 2021) in each calendar quarter, up to a total of \$10,000 per employee for all quarters. (50% of \$10,000 = maximum credit of \$5,000/employee for the year)

The credit is against an employer’s applicable employment taxes (see bullets below) for each calendar quarter, with any excess refunded to the employer.

### Qualified Wages

- Employers with more than 100 full-time employees on average during 2019 = wages paid to employees not providing services due to a COVID-19-related suspension of operations or significant decline in gross receipts
- Employers with 100 or fewer full-time employees on average during 2019 = wages paid to any employee, whether working or not
- Wages are only included if paid during the period from March 13, 2020 through December 31, 2020.
- Does not include payments made under section 7001 or 7003 of the Families First Coronavirus Response Act (“FFCRA”) (required paid sick leave or required paid family leave)
- Includes pro-rata portion of employer’s qualified health plan expenses to the extent such amounts are excluded from an employee’s gross income and properly allocated to those employees with qualified wages
- Wages included are those defined in Internal Revenue Code (“Code”) section 3121(a) and compensation defined in Code section 3231(e)
  - **Note:** service performed by ministers in the exercise of their ministry is excluded from the definition of employment in Code section 3121

### Applicable Employment Taxes

These employment taxes include the employer portion of Social Security taxes (Code Section 3111(a)), which generally is 6.2% of an employee’s wages, reduced by any of the following credits received by an employer:

- employment of qualified veterans under Code section 3111(e)
- research expenditures of qualified small businesses under Code section 3111(f)
- required paid sick leave under section 7001 of the FFCRA
- required paid family leave under section 7003 of the FFCRA

### Eligible Employer

- An employer (including a tax-exempt employer) carrying on trade or business during calendar year 2020 that experiences a full or partial suspension of operations due to orders from a government authority limiting commerce due to COVID-19, or that experiences a significant decline (more than 50%) in gross receipts when compared to the same quarter in the previous year
- All persons treated as a single employer under Code section 52(a) or (b), or Code section 414(m) or (o) are treated as one employer
  - **Note:** organizations eligible to participate in a church plan are treated as a single employer only under Code section 414(c), so this rule should not apply to such organizations
- Employers receiving a PPP loan (described in section A of this summary) are not eligible for this credit.

The credit no longer may be claimed when the full \$10,000 per employee qualified wage maximum is reached, or when an employer’s gross receipts for a quarter in 2020 are greater than 80% of the gross receipts for the same calendar quarter in 2019.

### **C. Economic Stabilization Loans**

The CARES Act created a loan and loan guarantee program aimed at economic stabilization. This program will provide loans to the airlines and other named industries, but also specifies that the Treasury Department will seek to implement a program through the Federal Reserve that provides financing to banks and other lenders to make direct loans to nonprofit organizations “to the extent practicable”.

The loans under this Federal Reserve program will be available to mid-sized businesses and non-profit organizations, with between 500 and 10,000 employees. Although there is no loan forgiveness, the interest rate on these loans can no higher than two percent and would not accrue interest or require payments for at least the first six months.

These loans will be subject to certain loan criteria and obligations, including:

- The funds received must be used to retain at least 90 percent of the recipient’s workforce, with full compensation and benefits, through September 30, 2020;
- The recipient will not abrogate existing collective bargaining agreements for the term of the loan plus an additional two years; and
- The recipient must remain neutral in any union organizing effort for the term of the loan.

### **D. Pandemic Unemployment Assistance Program**

The CARES Act creates a temporary Pandemic Unemployment Assistance program (“PUAP”) to provide payment to those not traditionally eligible for unemployment benefits and who are unable to work as a direct result of COVID-19. The Act also provides enhanced benefits for **all** workers eligible for unemployment. Unlike the FFCRA, which only applies to private employers with fewer than 500 employees, the CARES Act applies to all employers regardless of size.

Unemployment benefits are State-based programs and the eligibility criteria, amount of benefits and funding (taxes or premiums) for the coverage depend on the State involved. Generally, unemployment compensation benefits replace about one-third to one-half of wages. A list of the State programs and benefits can be found at <https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/January2020.pdf>.

The CARES Act expands and enhances the unemployment benefits available under State programs by

- expanding the availability of benefits to individuals who are not covered by a State program;
- extending the time period for State benefits to make them available for up to 39 weeks in total, expiring December 31, 2020,
- providing for an additional \$600 weekly payment available for up to four months (expiring July 31, 2020), allowing temporarily for a higher rate for low-wage workers, and
- adding a short term compensation benefit for workers who have not been laid off but whose employment and wages have been reduced due to COVID-19.

#### **Eligibility of Workers for Non-Profits and Religious Organizations**

The Act 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. The program is intended to cover independent contractors too.



In an Unemployment Insurance Explainer on the CARES Act prepared by the House Ways and Means Republicans on March 20, 2020, it states:

**“Are self-employed and independent contractors eligible?”**

Yes. Self-employed and independent contractors, like gig workers and Uber drivers, are eligible for Pandemic Unemployment Assistance. *This also covers workers laid off from churches and religious institutions who may not be eligible under the State’s program.”* (Emphasis added.)

In many States, non-profit organizations, including religious organizations, may elect to participate in the State program and pay the unemployment compensation taxes or to be self-insured for unemployment benefits (typically making contributions through the State system once an employee is eligible for benefits). In some States, religious organizations are exempt from the State program. While the CARES Act provides coverage for unemployed workers of such organizations, how the States will administer the benefits for these workers will depend on each State. To determine how to apply for benefits in a State, the U.S. Department of Labor maintains a website with information on each State at <https://www.careeronestop.org/WorkerReEmployment/UnemploymentBenefits/unemployment-benefits.aspx>.

For non-profits that would normally be self-insured for unemployment benefits (typically making contributions through the State system once an employee is eligible for benefits), they would only be responsible for paying 50% of the unemployment benefits their employees collect as opposed to 100%. The CARES Act provides that the federal government will reimburse the State for the remaining 50% of those benefits. Employees at these organizations will also be eligible for the additional \$600 per week benefit under the PUAP. After the first 26 weeks of the employee’s benefits expire under regular State unemployment laws, an employee of these non-profits would become eligible for the expanded benefits under the PUAP, which would grant an additional 13 weeks of benefits.

While employees of other non-profit organizations and religious organizations, which may normally be exempt from state unemployment requirements, are immediately covered by the PUAP under the CARES Act, it is yet to be seen how States will administer those provisions for those unemployed workers or how long it will take to process the claims of such workers.

**Eligible Individuals**

In addition to the above-mentioned requirements, covered individuals are those who are unemployed, partially unemployed, or unable to work 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.

Employees who are able to telework with pay and those who are receiving Emergency Paid Sick Leave (“EPSL”) or Family and Medical Leave Act-Public Health Emergency Leave under the FFCRA, or are receiving paid leave under an employer plan or state or local law, cannot simultaneously receive unemployment benefits under the CARES Act.

Workers who voluntarily quit are not eligible for these benefits.

#### **Eligibility Period**

Covered individuals will receive benefits for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 beginning on or after January 27, 2020 and ending on or before December 31, 2020, for as long as the unemployment, partial unemployment or inability to work caused by COVID-19 continues.

#### **Benefit Amount**

Under the Act, the weekly benefit amount for most workers is equal to the amount authorized under the State law where the covered individual was employed. As noted above, for workers not covered by a State law, or for self-employed individuals, the weekly benefit is calculated under 20 C.F.R. § 625.6, which is the Disaster Unemployment Assistance (“DUA”) program already in place under Federal law. DUA benefits are administered by the State but funded by the Federal government. The minimum weekly benefit amount is the average benefit amount of the State.

The Act also enhances unemployment compensation benefits for all eligible individuals – whether eligible under the expansion in the CARES Act or under applicable state law. The enhanced benefits include an additional \$600 per week (even if this takes the employee above their pre-unemployment earnings level), the elimination of waiting periods (a measure many states already have taken), and an additional 13 weeks of eligibility for benefits (39 weeks in total). It is anticipated that these benefits will be carried out through agreements between each state and the federal government.

#### **Short-Term Compensation Program**

The Act provides funding to support states that develop a “short-time compensation” program for employers that reduce hours in lieu of a layoff (but not for seasonal, temporary or intermittent employees). Many states already have so-called “work share” programs that provide for partial unemployment benefits when employers do hours reductions, or partial furloughs, in lieu of layoffs. Under such a program, employees whose hours have been reduced would receive pro-rated unemployment benefits, and the federal government would fund 100% of the costs employers incur by

retaining employees at reduced hours through December 31, 2020. This is intended to provide an incentive for employers to reduce employee hours in lieu of laying off employees.

#### **E. Charitable Contribution Incentives**

##### **Allowance of Partial Above the Line Deduction for Charitable Contributions**

The provision encourages individuals to contribute to religious, charitable and educational organizations by creating a new “above the line” deduction (i.e. for taxpayers who take the standard deduction). This deduction will permit them to deduct up to \$300 of annual monetary contributions. This is applicable for tax years beginning after 2019, and does not sunset after 2020 like the increased limits described below.

##### **Modification of Limitations on Charitable Contributions during 2020**

The provision increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. Such cash contributions must be made during 2020, and this provision does not extend the due date of the 2020 tax return.

For individuals, the 50-percent of adjusted gross income limitation is suspended for cash contributions made in 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income for cash contributions made in 2020. This provision also increases the limitation on deductions from 15-percent to 25-percent of net income for corporate food donations made during 2020.

#### **F. Recovery Rebates for Individuals**

All U.S. residents with adjusted gross income of up to certain limits are entitled to receive rebates under the CARES Act. For the vast majority of Americans, no action on their part will be required in order to receive a rebate, because the IRS will use a taxpayer’s 2019 tax return if filed, or in the alternative their 2018 return. The Secretary of the Treasury has stated that there will be a web-based application for those who don't receive direct deposit to give the IRS the necessary information. Below are some of the details:

- A rebate of \$1,200 (\$2,400 for joint filers) is available to U.S. residents who are not a dependent of another taxpayer and who have a work-eligible social security number, if their adjusted gross income is no more than: (i) \$75,000 for single filers, (ii) \$112,500 for head of household filers, and (iii) \$150,000 for joint filers.
- An additional \$500 per qualifying child under the age of 17 also will be provided.
- The full rebate is available to individuals who have little to no income or who have non-taxable income from means-tested entitlement programs (e.g., Supplemental Security Income, the Earned Income Tax Credit, and the Child Tax Credit).
- The total rebate is reduced by \$5 for each \$100 that a taxpayer’s income exceeds the income thresholds above and 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 rebate may be electronically deposited into any account authorized by the taxpayer, on or after January 1, 2018, to receive a federal income tax refund or other federal payment.
- A letter is to be mailed to a taxpayer’s last known address within 15 days after a rebate has been paid describing the amount and method of the payment and a phone number at the IRS to call in case the payment is not received.

## **G. Student Loan Relief**

### **Exclusion for Certain Employer payments of student loans**

The provision expands tax-free educational assistance to include student loan repayments for employees. It enables 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 2020 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 to the employee or directly to the lender on behalf of an employee after March 27, 2020 and before January 1, 2021.

### **Temporary Relief for Federal Student Loan Borrowers**

Principal and interest payments are deferred without penalty on federal student loans through September 30, 2020. No interest will accrue during this period and the borrower will be treated as if payments were made for purposes of loan forgiveness and loan rehabilitation programs. Collection activity on such loans also must cease during the period ending September 30, 2020. Borrowers have the option to continue to pay principal on their student loans during this period.

The CARES Act requires notices to be provided to borrowers about the deferral period. It also requires notices to be issued beginning on August 1, 2020 about resumption of payment obligations and options with respect to such obligations.

### **Service Obligation to Teachers**

For teachers who could not finish their year of teaching service as a result of COVID-19, their partial year of service will be counted as a full year of service toward TEACH grant obligations or Teacher Loan Forgiveness. The CARES Act waives a requirement that teachers must serve consecutive years of teaching service for Teacher Loan Forgiveness eligibility, if a teacher's service is not consecutive as a result of COVID-19.

## **H. Retirement Plan Changes**

### **Coronavirus-Related Distribution**

The CARES Act adds a new category of in-service distribution, referred to as a "coronavirus-related distribution," available to qualified individuals regardless of whether the distribution would otherwise be permitted. A coronavirus-related distribution is a distribution of up to \$100,000 for a taxable year made from a 401(a) plan, 403(b) plan, governmental 457(b) plan, or IRA on or after January 1, 2020, and before December 31, 2020, to a "qualified individual." A qualified individual is an individual who:

- is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention ("CDC"), or
- has a spouse or dependent diagnosed with COVID-19 by a test approved by the CDC, or
- experiences adverse financial consequences as a result of (i) being quarantined, furloughed or laid off or having work hours reduced due to COVID-19, (ii) being unable to work due to lack of child care due to COVID-19, (iii) being unable to work due to closing or reducing hours of a business

owned or operated by the individual due to COVID-19, or (iv) other factors as determined by the Secretary of the Treasury.

Importantly, the plan administrator may rely on an employee's certification that one of the above conditions is satisfied in determining whether a distribution is a coronavirus-related distribution. An employer is responsible for complying with the \$100,000 distribution limit only with respect to the retirement plans it and any employer in its controlled group maintains.

A coronavirus-related distribution is not treated as an eligible rollover distribution, mandatory withholding does not apply, and a 402(f) special tax notice is not required. Additionally, the 10% early distribution penalty tax does not apply.

Unless a participant elects otherwise, a coronavirus-related distribution will be included in the participant's gross income ratably over three tax years beginning with the year of distribution. A participant who receives a coronavirus-related distribution may repay the distribution in one or more contributions to any eligible retirement plan to which a rollover contribution can be made within three years of the distribution. The repayment will be treated for tax purposes as a direct rollover (or, if made to an IRA, as a trustee-to-trustee transfer) made within 60 days of distribution.

This new distribution category appears to be optional, although the 10% early distribution tax would not apply to a distribution that qualified under another distributable event (such as severance from employment) and also met the coronavirus-related distribution definition.

### **Loan Rule Changes**

The CARES Act increases the loan limits for any loan made from a 401(a), 403(b) or governmental 457(b) plan to a qualified individual during the 180 day period beginning on March 27, 2020. The CARES Act increases the maximum loan amount to \$100,000 (currently \$50,000), and permits loans up to 100% (currently 50%) of the present value of the participant's account.

The CARES Act also extends the due date for a qualified individual with an outstanding loan (on or after March 27, 2020) under a retirement plan. If the due date for any loan repayment occurs during the period from March 27, 2020 through December 31, 2020, the due date for the repayment is delayed one year. Any subsequent repayments of the loan are required to be adjusted to reflect both the delayed due date and any interest accruing during such delay, and the delay is disregarded for purposes of determining compliance with the five year term limit.

Only "qualified individuals" are eligible for this loan relief. The term qualified individual has the same meaning as described above for a coronavirus-related distribution. However, unlike with respect to the coronavirus-related distributions, there is no provision in the loan rule changes that allow the plan administrator to rely on an employee's certification that he or she is a "qualified individual."

The loan rule changes that temporarily increase the amount of available loans appear to be optional. However, the loan rule that extends the repayment date of an outstanding loan may be required.

### **Required Minimum Distribution Waiver**

Effective January 1, 2020, the CARES Act waives required minimum distributions ("RMDs") for defined contribution 401(a) plans, 403(b) plans, governmental 457(b) plans, and IRAs for calendar year 2020. The waiver applies to RMDs required to be made in 2020 and to 2019 RMDs that are required to be made by

April 1, 2020 (if not already made in 2019). For purposes of determining RMDs after 2020, an individual's required beginning date is determined without regard to this 2020 waiver.

In addition, the five year distribution period that applies to certain beneficiaries will be determined without regard to calendar year 2020.

If an eligible rollover distribution paid in 2020 would have been an RMD for 2020 but for the waiver, the distribution is not subject to the direct rollover rules, 20% mandatory withholding requirement, or the 402(f) notice.

### **Amendment Deadline**

Plan sponsors must amend their plans for the CARES Act changes by the last day of the first plan year beginning on or after January 1, 2022, *e.g.* December 31, 2022 for calendar year plans.

### **I. Health Plan Changes**

The CARES Act made a couple of technical amendments to the FFCRA, adding new language to the requirement that group health plans cover testing for COVID-19. The new language is designed to avoid technical issues slowing up new testing methods<sup>1</sup>. Self-insured church health plans may want to defer to their third-party administrators on the application of that language.

The other technical amendment deals with rates to be paid by health plans for the testing. Group health plans may pay a negotiated rate, if one was in effect prior to the public health emergency. If the plan did not have such a rate, the plan may pay the cash price (which the provider is required to list on a public internet site during the emergency period<sup>2</sup>), or the plan may negotiate a rate less than that price.

Another CARES Act provision seems designed to smooth the way for payment of vaccines when they are developed. "Any qualifying coronavirus preventive service<sup>3</sup>" will be treated as "preventive"<sup>4</sup> care that group health plans will have to cover at no cost.

High-deductible health plans will be permitted to cover telehealth and other remote care services without a deductible, for plan years beginning on or before December 31, 2021. (Coverage by a plan that pays for such services without a deductible will be disregarded for purposes of other forbidden coverage.) The provision takes effect on March 27, 2020.

There are two provisions that deal with protected health information ("PHI"). One is designed to allow for additional care coordination by aligning the confidentiality rules for substance abuse disorder treatments

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<sup>1</sup> For example, the amended language requires coverage of a test for which the developer has requested emergency use authorization under 21 USC Section 360bbb-3, unless the request has been denied or the developer does not submit a request under this section within a reasonable time.

<sup>2</sup> The emergency period is the one declared under section 319 of the Public Health Service Act, 42 USC 247d.

<sup>3</sup> "Qualifying" means an item intended to prevent or mitigate coronavirus that is either recommended (with an A or B grade) by the US Preventive Services Task Force or "effectively recommended" by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

<sup>4</sup> Under Section 2713(a); the waiting period interval under Section 2713(b) is to be disregarded, and the coverage requirement will be effective instead 15 days after the pertinent recommendation.

with the HIPAA rules generally.<sup>5</sup> The other directs the Secretary of HHS to issue guidance on the sharing of PHI during the various categories of public health emergency that have been declared. The guidance is due within 180 days of March 27, 2020.

The CARES Act also expands the types of expenses that can be reimbursed from consumer-driven health plans (e.g., health savings accounts, health reimbursement arrangements, healthcare flexible spending accounts etc.) to include over-the counter drugs without a prescription.

#### **J. HHS and Department of Education Funding**

The CARES Act appropriated funds for various other programs that may be of interest to the religious organizations we serve. We have listed the most notable on the following page:

##### **Department of Health and Human Services-Administration for Children and Families**

- Child Care and Development Block Grant- \$3.5 billion was appropriated for grants to states for immediate assistance to child care providers to prevent them from going out of business and otherwise support child care for families
- Community Services Block Grant- \$1 billion was appropriated in direct funding to local community-based organizations to provide a wide range of social services and emergency assistance

##### **Department of Education**

- Elementary and Secondary Education - \$13.5 billion was appropriated in formula funding for states to help schools respond to coronavirus and related school closures, meet immediate needs of students and teachers, improve the use of education technology, support distance education and make up for lost learning time.
  - Religious and other private schools are eligible for funding from this program based on the following section of the CARES Act:

*“ASSISTANCE TO NON-PUBLIC SCHOOLS  
SEC. 18005.*

*(a) IN GENERAL. — A local educational agency receiving funds under sections 18002 or 18003 of this title shall provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in nonpublic schools, as determined in consultation with representatives of non-public schools.*

*(b) PUBLIC CONTROL OF FUNDS. — The control of funds for the services and assistance provided to a non-public school under subsection (a), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).”*

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<sup>5</sup> There is a fair amount of detail in the section, but it appears to be technical material that would not be a priority for any potential efforts to change anything on behalf of the Church Alliance, so in the interest of brevity further detail is deferred.

- State Flexibility Funding - \$3 billion was appropriated in flexible formula funding to be allocated by states based on the needs of their elementary and secondary schools and institutions of higher learning. Religious and other private schools are eligible for this funding, under section 18005, shown above. The CARES Act specifically states that the state flexibility funds may be used to “provide support to any other...education related entity within the State that the Governor deems essential for carrying out emergency educational services to students” and that such uses include “the protection of education-related jobs.”
- Project SERV [*sic*] - \$100 million was appropriated in targeted funding for elementary and secondary and schools and institutions of higher learning to respond to the immediate needs of coronavirus and the effect on students.
- Higher Education - \$14.2 billion was appropriated in funding to institutions of higher education to directly support students facing urgent needs related to coronavirus, and to support institutions as they cope with the immediate effects of the virus and school closures. This provides targeted formula funding to institutions of higher education, as well as funding for minority serving institutions and HBCU’s.



Prepared by the **U.S. CHAMBER OF COMMERCE**

# CORONAVIRUS EMERGENCY LOANS Small Business Guide and Checklist



The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the Paycheck Protection Program, the initiative provides 100% federally guaranteed loans to small businesses.

Importantly, these loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward.

The administration soon will release more details including the list of lenders offering loans under the program. In the meantime, the U.S. Chamber of Commerce has issued this guide to help small businesses and self-employed individuals prepare to file for a loan.

Here are the questions you may be asking—and what you need to know.

# 1 Am I ELIGIBLE?

You are eligible if you are:

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard

In addition, some special rules may make you eligible:

- If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
- If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply

**REMEMBER:** The 500-employee threshold includes all employees: full-time, part-time, and any other status.

# 2 What will lenders be LOOKING FOR?

In evaluating eligibility, lenders are directed to consider whether the borrower was in operation before February 15, 2020 and had employees for whom they paid salaries and payroll taxes or paid independent contractors.

Lenders will also ask you for a good faith certification that:

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
3. Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
4. From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 and the date this loan program becomes available into a new loan)

If you are an independent contractor, sole proprietor, or self-employed individual, lenders will also be looking for certain documents (final requirements will be announced by the government) such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship.



## What lenders will NOT LOOK FOR

- That the borrower sought and was unable to obtain credit elsewhere.
- A personal guarantee is not required for the loan.
- No collateral is required for the loan.

## 3

# How much can I BORROW?

Loans can be up to 2.5 x the borrower's average monthly payroll costs, not to exceed **\$10 million**.



## How do I calculate my average monthly PAYROLL COSTS?



sum of  
**INCLUDED**  
payroll costs

-

sum of  
**EXCLUDED**  
payroll costs

=

**PAYROLL  
COSTS**

### **INCLUDED** Payroll Cost:

- 1. For Employers:** The sum of payments of any compensation with respect to employees that is a:
  - salary, wage, commission, or similar compensation;
  - payment of cash tip or equivalent;
  - payment for vacation, parental, family, medical, or sick leave
  - allowance for dismissal or separation
  - payment required for the provisions of group health care benefits, including insurance premiums
  - payment of any retirement benefit
  - payment of state or local tax assessed on the compensation of the employee
- 2. For Sole Proprietors, Independent Contractors, and Self-Employed Individuals:** The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in one year, as pro-rated for the covered period.

### **EXCLUDED** Payroll Cost:

1. Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
2. Payroll taxes, railroad retirement taxes, and income taxes
3. Any compensation of an employee whose principal place of residence is outside of the United States
4. Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

#### NON SEASONAL EMPLOYERS:

**Maximum loan =**

2.5 X Average total monthly payroll costs incurred during the year prior to the loan date

***For businesses not operational in 2019:***

2.5 X Average total monthly payroll costs incurred for January and February 2020

#### SEASONAL EMPLOYERS:

**Maximum loan =**

2.5 X Average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019 or March 1, 2019 (decided by the loan recipient) and ending June 30, 2019

# 4

## Will this loan be FORGIVEN?

Borrowers are eligible to have their loans forgiven.

### How Much?

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:

- Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business
- Rent on a leasing agreement
- Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- For borrowers with tipped employees, additional wages paid to those employees

The loan forgiveness cannot exceed the principal.

### How could the forgiveness be reduced?

The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees. Specifically:

#### Reduction based on reduction of number of employees



**PAYROLL COST**  
Calculated on page 2

**X**

Average Number of Full-Time Equivalent Employees (FTEs) Per Month for the 8-Weeks Beginning on Loan Origination

**÷**

#### Option 1:

Average number of FTEs per month from February 15, 2019 to June 30, 2019

#### Option 2:

Average number of FTEs per month from January 1, 2020 to February 29, 2020

#### For Seasonal Employers:

Average number of FTEs per month from February 15, 2019 to June 30, 2019

#### Reduction based on reduction in salaries



**PAYROLL COST**  
Calculated on page 2

**-**

For any employee who did not earn during any pay period in 2019 wages at an annualized rate more than \$100,000, the amount of any reduction in wages that is greater than 25% compared to their most recent full quarter.

### What if I bring back employees or restore wages?

Reductions in employment or wages that occur during the period beginning on February 15, 2020, and ending 30 days after enactment of the CARES Act, (as compared to February 15, 2020) shall not reduce the amount of loan forgiveness **IF** by June 30, 2020 the borrower eliminates the reduction in employees or reduction in wages.

## WHAT'S NEXT?

Look out for more information about eligible lenders and additional guidance from the SBA soon.

For more guidance and resources for small businesses, visit [uschamber.com/co](https://uschamber.com/co)