CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ("CARES") ACT[1]

Questions and Answers Provided by the General Council on Finance and Administration

What is the CARES Act?

The CARES Act is lengthy legislation intended to "provid[e] emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic." Among other things, it expands unemployment insurance eligibility and establishes loans, credits, and payment delays to help employers meet payroll and other obligations.

Would the expanded unemployment insurance eligibility created by the CARES Act apply to church employees?

Yes, if they meet the established requirements. For the purposes of this expanded eligibility, a "covered individual" is someone (1) who is not eligible for regular unemployment benefits and (2) who self-certifies as being otherwise able and available to work but is "unemployed, partially unemployed, or unable or unavailable to work because:

1. The individual has been diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis;
2. A member of the individual's household has been diagnosed with COVID–19;
3. The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID–19;
4. 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 as a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;
5. 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;
6. 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;

[1] **NOTE: This is a relatively <u>brief</u> overview of the CARES Act, and only incorporates information available based on the legislative text. Regulatory and other guidance is likely forthcoming, and every effort will be made to update this document to reflect such guidance.**

7. 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;
8. 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;
    a. The individual has to quit his or her job as a direct result of COVID–19;
    b. The individual's place of employment is closed as a direct result of the COVID–19 public health emergency; or
9. The individual meets any additional criteria established by the Secretary for unemployment assistance under this section."

Individuals who can telework with pay or who are receiving paid sick leave or other benefits would not be eligible to receive these expanded unemployment benefits.

Are church employees typically (outside the CARES Act) eligible to receive unemployment benefits?

The ultimate answer depends upon applicable state law, but church employees are generally not eligible to receive unemployment benefits. In most states, if not all of them, churches are exempt from the requirement to participate in the state's unemployment insurance system. That exemption means the churches' employees are not eligible to receive benefits through that system if they become unemployed. Some states will allow churches to voluntarily participate in the unemployment insurance system, either by paying the unemployment taxes like other employers or by being a "reimbursing employer."[2] Their employees would then be eligible to receive unemployment benefits.

What is the applicable time period for these benefits?

This expanded eligibility applies to unemployment, partial unemployment, or inability to work between January 27, 2020[3] and December 31, 2020.

What is the amount of the available benefit?

The benefit received by individuals covered by the CARES Act's expanded eligibility will be based on the applicable state calculation, plus an additional $600 per week funded by the federal government.[4]

How many weeks of benefits can an individual receive?

The CARES Act extends the typical duration of unemployment benefits up to a maximum of 39 weeks.

What is the impact of this expanded eligibility on church employers?

Churches that already participate in the state unemployment insurance system would likely be governed by processes they are already following. How this impacts churches that have not elected

[2] A "reimbursing employer" pays the states only when a former employee receives unemployment benefits.
[3] This is the effective date of the "public health emergency" declared by the Secretary of Health and Human Services.
[4] The additional $600 is available only if the state enters into an agreement with the federal government.

to voluntarily participate is unclear, as of now. GCFA will continue to monitor for developments and guidance on this issue.

Regardless, the CARES Act includes reimbursement from the federal government to the states for 50% of the benefits paid to individuals who were employed by certain nonprofits. States would pass along that 50% reimbursement to the employers. Thus, churches which are subject to unemployment-related costs as a result of the CARES Act would receive this partial reimbursement.

The CARES Act provides for loans to "small businesses." Are churches eligible?

Yes. The CARES Act creates the Paycheck Protection Program ("Program"). While small business loans are typically limited to for-profit businesses, the CARES Act makes it clear that 501(c)(3) organizations, including churches,[5] are eligible to receive loans through the Program. Generally, the organization must have no more than 500 employees.

What are the requirements for obtaining a loan?

In applying for a loan, the organization must provide a "good faith certification" that the loan is needed due to the current economic uncertainty, will be used to "retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments," and would not represent a duplication of funding.

Are there restrictions on the use of funds borrowed through the Program?

Yes. The borrowed funds may only be used for the following:

1. Payroll costs;[6]
2. Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
3. Employee salaries, commissions, or similar compensations;
4. Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
5. Rent (including rent under a lease agreement);
6. Utilities; and
7. Interest on any other debt obligations that were incurred before the covered period.[7]

Is there a limit on the amount that can be borrowed?

[5] Most other United Methodist entities, such as annual conferences and general agencies, would also be eligible.

[6] Generally, "payroll costs" is defined as including salary/wages/commissions and similar compensation, tips, payments for various paid leaves, insurance premiums for group health benefits, payment of retirement benefits, and state and local taxes assessed on the compensation of employees. The definition specifically <u>excludes</u> costs representing compensation in excess of $100,000 to a single employee (on a prorated basis), any compensation paid to an employee principally residing outside of the United States, and paid sick leave or paid family leave pursuant to the Families First Coronavirus Response Act.

[7] The "covered period" is February 15, 2020 to June 30, 2020.

Yes. The maximum that can be borrowed by a single organization is the lesser of $10 million or 2.5 times the average monthly payroll costs incurred by the organization in the year prior to the date of the loan.

What is the interest rate for these loans?

The CARES Act sets a maximum interest rate of 4%.

What are the repayment requirements?

Lenders will be required to provide between 6 and 12 months of deferment for payment of principal, interest, and fees. Additionally, loan forgiveness is available for the amount of the following costs incurred by the borrower during the first 8 weeks after loan origination:

1. Payroll costs;
2. Interest payments on a mortgage incurred prior to February 15, 2020;
3. Rent payments on a lease that was executed prior to February 15, 2020; and
4. Payments for utility services that began before February 15, 2020.

Loan forgiveness must be applied for by submitting documentation to the lender that evidences the covered costs incurred during the 8-week period.[8]

Are there other provisions of the CARES Act available to churches?

Yes. The CARES Act includes two payroll tax-related provisions that are available to churches.

An "employee retention credit" is available to a 501(c)(3) organization which either (1) has had to fully or partially suspend operations during a calendar quarter in 2020 "due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease 2019" or (2) has experienced a decrease in gross receipts of more than 50% in a calendar quarter in 2020 when compared to the same calendar quarter in 2019. The credit is taken against the FICA taxes paid by the organization. It is only available for wages paid from March 13, 2020 through December 31, 2020, and the amount of the credit is limited to 50% of up to the first $10,000 of wages paid to each employee during that time period.[9] Additionally, this credit cannot be taken for wages relating to paid sick and paid family leave provided pursuant to the Families First Coronavirus Response Act. *An organization that receives a small business loan pursuant to the CARES Act is not eligible for this credit.*

The CARES Act also creates a deferment option for the payment of the employer's share of FICA taxes incurred from March 27, 2020 through December 31, 2020. At least 50% of any deferred amounts must be paid by December 31, 2021, with the remaining balance due on December 31,

[8] The amount to be forgiven can be reduced if the borrower has experienced reductions in force and/or in wages paid to employees. A formula for this potential reduction is available here.

[9] An employer that averaged more than 100 employees during 2019 can only take a credit for wages paid to employees who are not working, while an employer that averaged 100 or fewer employees during 2019 can take a credit for wages paid to all employers, regardless of whether they are working.

2022. *An organization that has received loan forgiveness in relation to a small business loan made available by the CARES Act is ineligible for this deferment option*.

What resources are available?

Regulations are expected from the Small Business Administration regarding loans through the Paycheck Protection Program.

Information on how to apply for unemployment benefits is available here.

This Q&A document is for informational purposes only and should not be considered as legal or tax advice. Organizations with questions about the applicability of the CARES Act to their specific circumstances should consult with a legal or tax professional.