EPISCOPAL
DIOCESE
of Southern Virginia

The Rt. Rev. Susan B. Haynes
Bishop

11827 Canon Boulevard, Suite 101
Newport News, VA 23606-3071

757-423-8287
800-582-8292
Fax: 757-595-0783
www.diosova.org

CARES Act Summary

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PAYCHECK PROTECTION PROGRAM

Small Business Administration (SBA) loans may be obtained to cover broadly defined expenses during the period from February 15, 2020 through June 30, 2020. 501(c)(3) nonprofit organizations, including religious organizations, are eligible.

Loans may be used for the following expenses (see below for the maximum amount of the loan):

1. Payroll costs, defined broadly to include salary, wages vacation/parental/family/ medical/sick leave. There is a cap on compensation for an individual employee with an annual salary of $100,000 or more.
2. Separation allowances
3. Required payments for group health care/insurance; retirement benefits; and state and local employment taxes
4. Mortgage interest payments for loans incurred before February 15, 2020
5. Rental payments
6. Utilities
7. Interest on other debt incurred before February 15, 2020

Eligibility is limited to organizations with not more than 500 employees, including full-time and part-time employees. The maximum amount of the loan is 2.5 times the average monthly payroll expense.

The loans are processed through SBA-approved banks. Fees are waived; the lender is reimbursed by the federal government for processing and other fees. A zero-risk factor is applied for all applicants; there is no need to demonstrate that other sources are not available; and there is no requirement for collateral or personal guarantees. Interest rates may not exceed 4% (see below on deferment of payments and forgiveness of loans). Borrowers may prepay loans without penalty at any time.

The borrower must make a good faith certification as follows:

> "(I) that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
> "(II) acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;

Applicants for loans are presumed in the CARES Act to have been adversely impacted by COVID-19.

Lenders are required to defer payments (including principal and interest) for at least 6 months and not more than 1 year.

PAYROLL PROTECTION LOAN FORGIVENESS

Loans in an amount equal to the sum of the following expenses during the 8 weeks beginning on the date of the loan may be forgiven:

- Payroll costs (as defined above)
- Interest paid on mortgages (excluding principal payments), assuming the mortgage was entered into before February 15, 2020
- Rent under a lease entered into before February 15, 2020; and
- Utility payments

The loan amount forgiven may not exceed the principal amount of the loan. As the loan program is designed to enable continued employment, the amount of the loan forgiveness will be reduced proportionately to reflect both of the following:

1. The number of full-time equivalent employees during the loan team is reduced as compared to either:
    - the average number last year (measured during the period February 15, 2019 to June 30, 2019), or (at the borrower's choice)
    - the average number during the period January 1, 2020 to February 29, 2020
2. Salary or wage cuts of more than 25% to any employee (excluding employees paid over $100,000 in wages or salaries) who was on the payroll during the most recent full quarter before the loan.

These reductions are eliminated to the extent the borrower rehires employees or reverses the salary and wage cuts by June 30, 2020. The forgiveness program is designed to encourage borrowers to keep or rehire their workforce.

To apply for loan forgiveness, the borrower must submit defined documentation verifying full-time employees, pay rates, tax filings, and documentation on payments. We suggest establishing a separate bank account to document that the proceeds of the loan have been used for the defined purposes.

DELAYED PAYMENT OF EMPLOYER PAYROLL TAXES

SECA payroll taxes and the employer portion of FICA taxes otherwise due at the time of enactment of the CARES law and through year end 2020 may be deferred until December 31, 2021, as to 50% of the taxes, and until December 31, 2022 with respect to the remaining amounts. No application is necessary for this deferral, the due date has been extended by the CARES Act. However, clarification is needed as to this provision as this relief may not be available for borrowers that take advantage of the loan forgiveness relief. Further guidance will be provided as soon as this issue can be clarified.

REFUNDABLE TAX CREDIT

A credit is allowed against applicable employment taxes for an institution eligible for a paycheck protection loan for each calendar quarter in an amount equal to 50% of the qualified wages of each of the organization's employees. To qualify, the institution must show either of the following:

i. A mandated full or partial suspension of operations by governmental authorities due to the coronavirus; the credit will continue through the end of the quarter in which the governmental mandated suspensions are lifted; or
ii. The institution's gross receipts fell by over 50% from the level of the same quarter in the prior year. In this case, the credit continues until gross receipts exceed 80% of the prior year comparable quarter.

The credit is available beginning with the first quarter after December 31, 2019 during which either of the above conditions exist. Note that most if not all of our churches will qualify under test (i) above.

The amount of the credit is capped at a maximum of $5,000 for all quarters per employee (based on 50% of the compensation at a max). This credit applies with respect to employees, and payments to independent contractors do not qualify. The amount of the credit is further limited as follows:

1. If the average number of full-time employees (i.e., those who worked an average of at least 30 hours per week) during 2019 was over 100, the credit applies only to wages paid to employees who were paid but not working because of the governmental suspension.
2. If the average number of full-time employees during 2019 was 100 or less, the credit applies to all wages paid during the period of the government suspension, whether the employees were working or not.

If the amount of the credit is greater than employment taxes would otherwise have been, the IRS will issue a refund for the excess amount ensuring the full benefit of the credit will be received.

Please note that this credit is not available to an institution that takes out a paycheck protection loan under the CARES Act.

Applicable employment taxes include the employer portion of FICA. For an institution that uses payroll services, regulations are expected to be issued that provide instructions on application.