

COVID-19 U.S. Government relief opportunities for Wesleyans

Kevin Batman, Chief Financial Officer

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On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA). On March 27, 2020, he signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law as well. Both laws have significant impact on The Wesleyan Church, particularly the CARES Act, as we navigate the financial uncertainty and stress of these days.

I have reviewed dozens of resources from government entities, law firms and CPA firms related to FFCRA and CARES Act, as well as other government actions, to discern their potential implications for Wesleyan churches, districts, pastors and congregants. Following is information addressing four topical areas of interest:

1. Opportunities for the Church as an employer
2. Unemployment benefits
3. Provisions for individuals
4. Charitable giving opportunities

Disclaimer: It is important to note that while legislation has been enacted, technical rulings and regulatory guidance are in process and have not been issued, particularly relating to the CARES Act. As a clearer picture of what this means and how it all works, information will be updated. This resource should not be relied upon as legal advice but is provided as general information.

Opportunities for the Church as an Employer

Paycheck Protection Program (CARES Act, Sec. 1102): Religious organizations are eligible to participate in loans which may be forgiven. *In other words, if administered correctly by the recipient, and Wesleyan churches are eligible to be recipients, the program works like a grant.*

A word of caution: *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 not otherwise be subjected. It will likely take as much as two weeks for these issues, as well as regulatory guidance and banking documents, to be formalized.*

Highlights:

- **Eligibility:** Every U.S. employer with less than 500 employees.
- **Period of coverage:** February 15, 2020 through June 30, 2020.
- **Maximum loan amount:** the lesser of 2.5 times the average monthly payroll costs for the one-year period preceding the date of the loan or \$10 million.
 - Eligible payroll costs are:
 - Salaries and wages (for employees earning less than \$100K per year)
 - Tip – SECA or SET reimbursements for clergy are part of salary.
 - Tip – Employees receive a W-2. Non-employees receive a 1099-MISC.

- Employer-paid group health care plan costs including premium (more regulatory guidance is anticipated)
 - Employer-paid pension benefits (excluding employee deferrals)
 - Ineligible payroll costs:
 - Excess salaries and wages (more than \$100K per employee)
 - Federal payroll taxes (Employer FICA and Medicare)
 - Emergency sick leave or emergency family leave payments that qualify for a credit under FFCRA.
 - Guidance relative to clergy housing allowances is unclear at this time.
- **What can loan proceeds be used for:**
 - Eligible payroll costs (see above)
 - Paid sick, medical or family leave
 - Mortgage interest (great deal for those with WIF loans)
 - Rent and utilities (electricity, gas, water, Internet)
- **Loan underwriting:**
 - Contact your local bank to request the loan.
 - Eligibility requires the entity must be operational and have employees on February 15, 2020.
 - No personal guarantees or collateral required.
 - No personal recourse unless funds are used for an unauthorized purpose.
 - Borrower must complete a good faith certification.
- **Loan forgiveness:**
 - Proceeds must be spent over eight (8) weeks from the date of the loan on the items listed above.
 - Forgiveness is reduced by a formula if the workforce decreases.
 - Tip – ***Open a special bank account for this program. Keeping funds separate will make it clearer and cleaner to account for the use of loan proceeds.***
- **Loan repayment terms:**
 - Payments may be deferred for six (6) months to a year
 - Maximum maturity is 10 years
 - Interest rate is 4%
- **Wesleyan accountability tips:**
 - ***Churches should communicate their intent to participate in the program with their district superintendent as a best practice given the challenges of this season. Even so, Discipline requirements for loan approval and loan guarantees by the district do not apply since Paycheck Protection Program loans are not collateralized by property.***
 - ***WIF loan agreements prohibit loans from other lending sources without their permission. However, since these loans are anticipated to have a standardized loan agreement, once one contract is reviewed and language is acceptable, WIF's review and approval process should be expedited. Contact WIF prior to signing a Paycheck Protection Program loan agreement.***
- **Practical Lending Tips:**
 - Since WIF is a church loan fund and not a bank, it will not be handling Small Business Administration (SBA) loans under the CARES act.
 - Churches should contact the bank where they have their checking account to find out if it participates in SBA programs.

- SBA funding for this program is limited to \$349 million. It will take a few days for details to become clear, but it is wise to contact your bank immediately and gather information anticipated to be needed.

Delay of Payment of Employer's Share of Social Security Taxes (CARES ACT, Sec. 2302):

- This option is **NOT available** to Paycheck Protection Program participants.
- Employer share of FICA tax payments can be delayed from March 27, 2020 to December 31, 2020.
- Half payment is due by December 31, 2021 and the other half payment is due by December 31, 2022.
- Employee withholdings and employer Medicare taxes are excluded.
- Applicability to clergy subject to Self-Employment Tax is unclear.

Employee Retention Credit for Employers Subject to Closure or Substantial Revenue Loss (CARES ACT, Sec. 2301)

- This option is **NOT available** to participants in the Paycheck Protection Program.
- Provides a refundable credit against employer's share of payroll taxes.
- Qualifying tests:
 - Fully or partially suspended business operations due to orders from a government entity
 - Experienced a reduction in gross receipts of at least 50%
- Credit is 50% of the first \$10K of wages per employee paid after March 12, 2020 through December 31, 2020.
- Credit is reduced by credits for emergency sick leave and emergency family leave pay under FFCRA.

Emergency Paid Sick Leave (EPSL) (FFCRA, Sec. 5102, Sec. 7001)

- Temporarily requires (April 1, 2020 through December 31, 2020) employers with less than 500 employees to provide two (2) weeks of sick pay to current full-time and part-time employees, who are unable to work or telework because the employee:
 1. is subject to a quarantine or isolation order related to COVID-19.
 2. has been advised by a health care worker to self-quarantine due to concerns related to COVID-19.
 3. is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
 4. is caring for an individual who is subject to a quarantine or self-quarantine order as referenced above.
 5. is caring for a son or daughter due to a school or childcare provider closure due to COVID-19 precautions.
- 6. Employees included in items 1-3 are required to be paid at their full regular rate up to 80 hours.
- 7. Employees included in items 4-5 are required to be paid 2/3rds their regular rate up to 80 hours.

- Employers with less than 50 employees may be exempted from the provision if implementation would jeopardize the ability of the employer to continue.
- Employers are permitted refundable payroll tax credits for EPSL payments.

Emergency Family and Medical Leave (EFML) (FFCRA, Sec. 3102, Sec 7003)

- Temporarily requires (April 1, 2020 through December 31, 2020) employers with less than 500 employees to provide 12 weeks of EFML for those who are unable to work or telework because they need to care for a minor child whose school or childcare provider is closed due to a public health emergency.
- Employers with less than 50 employees may be exempted from the provision if implementation would jeopardize the ability of the employer to continue.
- Employees who have completed 30 calendar days of employment are eligible.
- Requires most employers to ensure that an employee will be able to return to work in an equivalent position.
- EFML leave provides for 10 weeks of paid leave after two (2) weeks of paid EPSL.
- Employers are permitted refundable payroll tax credits for EFML payments.

Employer Payments of Student Loans (CARES Act, Sec. 2206)

- Employers with an Educational Assistance written plan document (IRS Code 127) may include tax-free payments to an employee or to a lender, for principal and interest on any qualified education loan incurred for the employee's education through January 1, 2021.
- In normal times, qualified plan expenses include the cost of books, equipment, fees, supplies and tuition. This provision expands benefit coverage.
- An employer cannot provide an employee with a choice between educational assistance or any other taxable compensation.
- **Tip** – This is an especially interesting opportunity for those currently or interested in participating in the [Education & Clergy Development's Thrive Financial Initiative](#). Local church payments may qualify for a matching grant.
- Formal educational assistance programs allow for employers to pay educational costs of up to \$5,250 on a tax-free basis for employees annually.

Additional CARES Act Resources:

- [BMWL Nonprofit Special Alert](#)
- [BMWL video](#)
- [SBA Coronavirus: Small Business Guidance & Loan Resources](#)
- [Whiteford, Taylor, Preston Client Alert](#)
- [Whiteford, Taylor, Preston Client Alert](#)
- [Final Approved Bill](#)

Additional FFCRA Resources:

- [BMWL Nonprofit Special Alert](#)
- [US Department of Labor FFCRA Fact Sheet for Employees](#)
- [US Department of Labor FFCRA Fact Sheet for Employers](#)

- [US Department of Labor FFCRA FAQ](#)
- [Final Approved Bill](#)

Employer Assistance Plan Resources (IRS Code Sec. 127)

- [IRS Publication 15-B Employer's Tax Guide to Fringe Benefits](#)
- [Society for Human Resource Management \(SHRM\) Designing and Managing Educational Assistance Program Toolkit](#)
- [Internal Revenue Code section 127](#)

Miscellaneous Additional Resources

- [Benefits.Gov Coronavirus Resource Help Center](#)
- [ChurchLaw&Tax](#)
- [Evangelical Council for Financial Accountability \(ECFA\) COVID-19 Resources](#)
- [National Conference of State Legislatures Paid Sick Leave](#)
- [SHRM COVID-19 Government Response and Resources](#)

Unemployment Insurance

In 1935, Congress enacted the Federal Unemployment Tax Act (FUTA) providing for a cooperative federal-state program of benefits to unemployed workers. FUTA is financed by a federal excise tax on wages paid by employers in covered employment. An employer is, however, allowed a credit of up to 90% of the federal tax for "contributions" paid to state-funded employment programs that meet minimum standards. States are free to expand their coverages beyond federal minimum standards. Unemployment benefits are taxable for federal income tax, although states often exempt unemployment benefits from state income tax. States administer unemployment benefit programs and the Federal government's role is help with funding and plan oversight. When a person files for unemployment benefits, that individual files with one governmental entity, not two.

Religious employers are exempt from participation in FUTA and most state programs exempt religious employers as well. Some states allow religious employers to opt into state plans. If a religious employer does not participate in a state unemployment insurance program, its employees do not qualify for unemployment in normal times. These are not normal times.

Regrettably, some churches may not be able to continue to employ staff at existing levels. Additionally, many bi-vocational pastors may, through no fault of their own, become unemployed. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) contains several provisions that expand benefits and even provide for unemployment benefits during this COVID-19 crisis for those not normally covered.

Pandemic Unemployment Insurance (CARES Act, Sec. 2102)

This provision allows states to make unemployment benefits available to those not normally covered. Pandemic Unemployment Assistance will be state administered but fully funded by the US Government and is effective through December 31, 2020. This benefit is particularly helpful to those who may be laid off by a religious employer.

Emergency Increase in Unemployment Compensation (CARES Act, Sec. 2104)

An additional \$600 in Federal Pandemic Compensation is added to every weekly unemployment benefit, effective until July 31, 2020.

Additional Weeks of Pandemic Unemployment Benefits (CARES Act, Sec. 2105 and Sec. 2107)

In normal times, some states begin paying unemployment benefits after one week. Until December 31, 2020, the CARES Act funds the first week of benefits in states that wait a week. Through December 31, 2020, the CARES Act also provides for an additional 13 weeks of federally funded unemployment benefits for individuals who have exhausted normal state benefits.

Unemployment Resources

- [Unemployment Benefits Finder \(Select a State\)](#)
- [US Department of Labor How Do I File for Unemployment Insurance?](#)

Provisions for Individuals

Recovery Rebates (CARES Act, Sec. 2201)

- Tax rebates are available as follows:
 - \$1,200 for singles and heads of households
 - \$2,400 for married couples filing joint returns
 - \$500 per qualifying child under age 17
- Rebates reduced by 5% (\$5 for every \$100) of adjusted gross incomes above the limits below:
 - \$75,000 single
 - \$122,500 head of household
 - \$150,000 joint
- Rebates will be paid out as advance refunds on the basis of a taxpayer's filed tax year 2019 returns (or tax year 2018, if a 2019 return has not yet been filed).
- Non-filers generally need to file a tax return to claim a rebate, although the IRS may coordinate with other federal agencies in some instances.

Special Rules for Use of Retirement Funds (CARES Act Sec. 2202)

- The 10% tax on early distributions from IRAs and defined contributions plans (401K and 403B) for COVID-19 distributions made in 2020 are waived.
- COVID-19 distributions of up to \$100K may be made for:
 - A person, spouse or dependent who tests positive for COVID-19 using a CDC-approved test.
 - A person who experiences adverse financial consequences from being quarantined, furloughed, laid off, having hours reduced or being unable to work due to childcare.

- Defined Contribution plans may be amended to provide for these provisions, as well as to provide for loans of up to \$100K. The Wesleyan Pension Fund Board of Directors does not plan to amend plan documents for early distributions or loans as permitted by the CARES Act.

Tax-free Reimbursement of Feminine Hygiene Products in 2020 (CARES Act, Sec. 3702)

- Tax-free reimbursement is available for feminine hygiene products from a health savings account (HSA), health reimbursement arrangement (HRA), health flexible spending account (health FSA) and Archer medical savings account (Archer's MSA).

IRS Tax Filing Deadline Extended (Notice 2020-18)

- The filing and payment deadline for most tax returns has been extended from April 15th to July 15th.

IRS Coronavirus Resources

- [IRS Coronavirus Tax Relief](#)
- [IRS Filing and Payment Deadline FAQ](#)
- [Senator Chuck Grassley CARES Act: Recovery Check FAQ](#)

Charitable Giving Opportunities

Partial Above-the-Line Deduction for Charitable Contributions (CARES Act, Sec. 2204)

- For 2020, individual taxpayers who do not itemize deductions may claim up to \$300 of charitable contributions made as a deduction in arriving at adjusted gross income.

Modifications of Limitations on Charitable Contributions in 2020 (CARES Act, Sec. 2205)

- Cash contributions made by individual taxpayers to churches are subject to a limit of 100% of adjusted gross income – not the normal 60% limit.
- Cash contributions made by corporations to churches are subject to a limit of 25% of pretax income, not the normal 10% limit.
- The limit on deductible food inventory contributions is increased from 15% to 25% of pretax income.