Key Take-Aways for Christian Schools

Evangelical Council for Financial Accountability Webinar: CARES Act, 3/31/20

Presenters: Mike Batts, CPA, and Frank Sommerville, attorney

Disclaimer: Jeff Walton and Gary Peltier participated in a webinar explaining provisions of the CARES Act that will affect churches, Christian schools, and other nonprofit ministries. The following notes are a **summary of key elements** of the presentations and a question/answer period. The presenters emphasized that their information is the best available information at the time of the presentation (3/31/20) but that regulations and guidance from appropriate government agencies have not yet been developed and could change the information presented. These notes do not constitute legal advice but are a good-faith effort to provide current information to AACS member schools. You may listen to the full recording of the webinar (90 minutes) at the link provided in the communication from AACS.

Jeff Walton

Paycheck Protection Program

1. The Paycheck Protection Program (a provision of the CARES Act, HR 758) provides forgivable loans for employers of fewer than 500 persons. Eligible employers include nonprofit organizations, including churches and Christian schools. The loans will be facilitated by local banks, overseen by the Small Business Administration.
2. There is no apparent restriction of religious organizations. It was the intent of some legislators to include all nonprofits, including churches. Nothing in the law specifically permits churches that do not have a 501(c)(3) determination letter to participate, but presenters have informal assurances that churches may participate. Lenders currently have conflicting information. Forthcoming regulation or guidance should clarify. If a church does not have a 501(c)(3) determination, applies, and is told they do not qualify, do not accept that answer until further regulation or guidance is provided.
3. The maximum loan under the PPP is 2.5 times the average monthly payroll costs for the one-year period preceding the date of the loan ($10 million max). Payroll calculations include some benefits: employer paid health care benefits, retirement benefits, and state and local payroll taxes.
4. The amount of the loan eligible for forgiveness includes payroll costs, mortgage interest, rent, and utilities in the eight-week period following the date of the loan.
5. Any amount of the loan not forgiven is then repaid in payments over as much as ten years at an interest rate not to exceed 4%.
6. Application for PPP loans will be through a local lender. The form for applying for a PPP loan has not yet been distributed. If you are considering obtaining a PPP loan, the presenters recommend contacting your local bank for instructions.

Update 4/1—The PPP application form is available from the US Treasury Department at this link https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf

7. Forgiveness criteria: There is no “inability to pay” expectation for loan forgiveness. The requirement is that you have used the loan funds for the stated purposes during the applicable period.
8. Religious liberty considerations: In the presenters’ view, PPP loans are part of a disaster relief program and are widely applicable. There is no indication of any adverse impacts on religious liberty. There are likely to be some standard SBA requirements which are not intrusive and do not include SOGI nondiscrimination language. This may be clarified with regulations or guidance.
9. A loan applicant can withdraw from the process before receiving the loan.

Expanded Unemployment Benefits

1. The CARES Act establishes a new federal program administered through state unemployment offices. The program pays an individual who loses employment $600 per week in addition to state unemployment benefits.
2. Employees of nonprofits that are exempt from participating in state unemployment insurance programs will still qualify for the federal program benefit ($600/week) but will not qualify for any state unemployment benefits.
3. Employees of self-insured nonprofits will qualify for both state and federal programs. The self-insured nonprofit will be required to repay the state program for state benefits paid. The federal program will repay the state 50% of benefits paid from the state program, with the assumption that states will reduce repayment from the self-insured nonprofit by 50%.

There are some other provisions that allow deferral or retention of the employer’s share of payroll taxes. These provisions do not apply if an employer obtains a Paycheck Protection Program loan and are unlikely to apply to AACS member schools.