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 April 15, 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 is for general information only. It is not a complete analysis and should not be relied upon as legal advice.

Payroll Taxes Delay

Quick Summary (read below for details)

- Employers may defer payment on a portion of Social Security taxes that otherwise would be due
- Self-employed individuals can defer payment of a portion of Social Security taxes
- This is not a tax holiday, but a postponement
- This deferral is not available to any employer Paycheck Protection Program ("PPP") loan once that loan has been forgiven
- Guidance on these deferred payments, including on the timing with PPP loan forgiveness, has not yet been issued (as of 3/31/20)

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. The IRS has stated, however, that organizations that have applied for and received PPP loans are still eligible to defer payroll taxes until their loan is forgiven. Once the loan is forgiven no further payroll taxes may be deferred, but those payroll taxes that have already been deferred will still be subject to the two year repayment schedule.

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.