

FIVE UNIQUE CHALLENGES FOR RELIGIOUS ORGANIZATIONS IN APPLYING FOR THE PAYCHECK PROTECTION PROGRAM



Houses of worship and other religious institutions applying for the Paycheck Protection Program (“PPP”) present unique questions that many lenders and financial institutions will be ill equipped to answer. Proper guidance and advocacy can help ensure that these organizations qualify for the maximum amount of funding possible during the COVID-19 crisis.

While PPP applications are relatively simple, there is confusion and inconsistency in lenders’ interpretation and application of the lengthy and convoluted statute. Here are five problems churches, synagogues and other religious institutions may encounter while applying for PPP:

- 1. Housing Allowance Inclusion** – The statute does not specify whether parsonages or parsonage allowances are included in or excluded from payroll expenses. Exclusion of housing allowances can substantially diminish the loan size. Since most lenders will be unfamiliar with how housing allowances are calculated and reported, they may conclude that it is not part of payroll expenses. Our attorneys can advocate on your behalf to include a housing allowance in the payroll expense calculation, so that your organization receives the maximum funding.
- 2. Affiliation and Eligibility** – The PPP applies to organizations with less than 500 employees. “Affiliation Rules” determine whether organizations and related entities are considered the same or separate, such as local churches and denominations. The applicability of these rules may help determine whether a religious organization qualifies for the PPP. The advocacy of experienced counsel can help satisfy an organization’s needs.
- 3. Authorization for the Application** – Depending on your local laws and organizational bylaws, a congregational or board meeting may be necessary to authorize the loan application. With social distancing rules in effect, virtual meetings may be a legally viable alternative, if allowable under local law and organizational documents. We can help ensure the proper steps are taken to authorize the loan application.
- 4. Anti-Discrimination** – In completing the PPP application, you must agree not to discriminate and that you will display the “Equal Employment Opportunity Poster” prescribed by SBA. A religious organization is exempt from certain discrimination prohibitions. We can advise religious organizations on how to complete the application without violating either law or religious convictions, and argue these points to the lender with convincing support for the organization’s position.
- 5. Tax Exempt Status** – Churches and other houses of worship are, as a matter of law, tax exempt, though many don’t obtain 501(c)(3) status. The SBA expressly recognizes this, but lenders are likely to be confused by a church with no formal recognition. We can help present the law and facts in a way that satisfies the lender’s concerns.

Going it alone may be ill advised under the circumstances.

Nelson Madden Black LLP is able to advise and guide religious organizations as they apply for CARES Act aid.

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