To: Diocesan Relief Working Group

From: Sally Johnson, Chancellor to the President of the House of Deputies
Mary Kostel, Chancellor to the Presiding Bishop
Kent Anker, Chief Legal Officer

Date: February 17, 2021 as Revised March 12, 2021

RE: Preparation for February 19 Meeting (Including expanded PPP analysis)

The first question is whether or not PPP loans from the federal government that have been forgiven must be included as assessable income and thus should be reported as income on the Diocesan Report to the Executive Council and whether or not, if reportable as income, the amount reported should be deducted from income.

The second is whether the Executive Council could provide financial relief to dioceses that is tied in some way to a diocese' Assessment.

Is PPP assessable and therefore reportable as "income" on the Diocesan Report of Operating Income

The revenue to support the budget of the Church as adopted by the General Convention is generated primarily by an assessment paid by each diocese on its income, or more precisely, on that portion of a diocese's income defined by the General Convention as being subject to assessment in accordance with a formula adopted by the General Convention. See Canon I.1.8

Assessable "income" is defined in the Resolution the General Convention adopts at each General Convention and is further set forth in the Diocesan Report of Operating Income approved by the Executive Council in Part II: Operating Income and Audited Financial Statement. Section V of that Report requires reporting of "grant" income and while it also provides for deducting the amount of grants received from the DFMS for operations assistance, it makes no provision for deducting any other kinds of grants whether for operations assistance or otherwise.

Based on the General Convention Resolution, the Diocesan Report which has remained essentially unchanged since at least 2010 (with a minor change in 2017), and the course of practice in how the Diocesan Report has been understood by the Treasurer's Office and by dioceses, forgiven PPP loans must be included as income and may not be deducted and are, therefore, part of assessable income of dioceses.

Questions have been raised about whether the Church's diocesan assessment is in conflict with federal rules regarding PPP loan forgiveness.

As this Group is aware, Episcopal recipients of PPP funds must deal with multiple rules about the funds including federal rules concerning PPP eligibility, forgiveness, and tax treatment, and, in addition, the rules of the General Convention regarding assessments.

The first are the federal rules about what criteria organizations had to meet to receive PPP funds, criteria the federal government used to determine if a PPP loan could be forgiven, and what treatment forgiven PPP loan funds are given by the IRS for federal tax purposes. For forgiveness purposes, the SBA will review payroll records and receipts to make sure headcount was preserved and eligible expenses incurred.

The second and completely separate set of rules is how the General Convention defines which diocesan funds are included in the final amount to which the General Convention assessment formula applies. The Church is free to make its own rules about that and General Convention has done so. Under those rules, forgiven PPP loans are a type of income that must be reported on the annual Diocesan Report and are included in the total income report of the year in which the forgiveness takes place. Just as The Episcopal Church cannot tell the federal government how to operate the PPP program, the federal government cannot tell The Episcopal Church how to define what diocesan funds will be included in the calculation of a Diocese's assessment. The Church is not requiring that 15% (the current assessment rate) of the forgiven PPP loans themselves be used to pay a portion of a Diocese's assessment, only that the amount of the forgiven loan be reported as income. The source of all funds used to pay a Diocese's assessment is up to a Diocese.

Can the Executive Council provide financial relief to dioceses that is tied in some way to a diocese's Assessment?

The Executive Council can change the Budget adopted by the General Convention but not the Assessment adopted by the General Convention, except for providing waivers pursuant to Canon I.4.6(g). See Canon I.1.11 and Canon I.4.6(h) and (i). Prior to the adoption of Canon I.4.6(g), in 2015, it is believed that Council did not make any adjustments to a diocese's Assessment[1] although, unpaid assessments were written off when Management determined, in its best judgment, they were uncollectable.

Therefore, any relief to dioceses provided by the Executive Council cannot involve a forgiveness, credit against, reduction in, or any other action that would, in fact or effect, change the Assessment of any diocese. The Council could provide grants, gifts, or other forms of relief. And it will continue to offer Waivers for financial hardship through its established process.

[1] Prior to 2018 what is now the "Assessment" was called an "Asking."