



Susan Clifton

President

DIOCESE OF FAIRBANKS

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Message from the President

Susan Clifton

As fiscal officers of the Church, we all wear multiple hats and are often trying to ascertain how to handle things that we never dreamed we would encounter. I don't think any of us could have ever imagined the various challenges that we have been facing the last several months. We have truly been forced to navigate in uncharted waters: closing parish doors and being unable to gather together during one of our most important liturgical seasons, closing the doors to our schools while still trying to provide our students an exceptional education and hospital staff struggling to care for those with a virus, which has no cure while also trying to keep themselves and other patients safe. Those were just the initial challenges!

Each of those items had a personal impact, but the economic fallout is the one that we are professionally charged with trying to minimize the effect of and overcome. I am sure I am not alone when I say that I never thought I would be delving into legislation to consider the impact of a church or other religious organization taking federal funds, or how to help a parish survive when their main avenue of collecting donations is no longer possible because there is no public Mass. As if those challenges are not enough to keep us busy in all that spare time that we have, we are looking at an economic downturn and unemployment rates that probably have never been seen before in our lifetime.

Sounds pretty dismal, doesn't it? But is it really all just doom and gloom? I don't think so. We have not been forsaken and our faith is still strong. Maybe it's even a little more focused. As humans, we often don't recognize how much we take things for granted until there is a shake up that forces us to look at things differently. There are communities all over the world that are unable to gather on a regular basis to celebrate Christ. We have multiple locations in my own diocese that only have a priest to celebrate the Mass once every two to three months. There are still locations where Christians are persecuted for their beliefs. Suddenly things are looking a little brighter from where we sit!

As we work through these challenges, fiscal and other, we are not alone, regardless of how small our diocese may be. We have a great think tank in our DFMC community groups. Together we are stronger, and more creative. Together we come up with ideas that can be tailored to each of our diocesan situations.

The onset of this crisis was met with our members pulling together to share information. Your DFMC Board and Executive Director quickly expanded that information into an online survey followed by two incredibly timely and helpful webinars facilitated by Villanova University on the Financial Impact of COVID and the CARES Act. DFMC members continue to come together in the Discussion Communities hosted on our website to confer about the progression of concerns: re-opening pastoral centers and parishes, maintaining and furloughing staff, the justice of asking for help when it seems all are suffering.

When is it going to end?

Don't we all wish for that Magic 8-ball of our childhood that would give an answer to this question? A poll of our members would probably result in a resounding response that could be summarized by saying that "normal" will never be the same again. We are going to have to continue social distancing, a phrase and action that was created as a result of this pandemic. Masks are likely to become a new fashion industry. Zoom meetings are no doubt here to stay, and there is much discussion about less office space required and more working from home.

What does this mean for the DFMC and our Annual Conference?

First off, I want to announce that the 50th anniversary DFMC meeting is on as planned September 13-16, 2020 at the Hyatt Regency Denver! We hope that all of you can make it. The Board is actively working on hosting our 50th gathering in Denver while trying to ensure we can follow the guidelines of social distancing. There are still many unknowns as to what the COVID landscape will be, but of

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Message from the President

Susan Clifton

all times that we need to gather together and share information, this year seems to be one of the most vital.

First of all, besides the financial assistance from Catholic Extension and the USCCB Subcommittee on Home Missions for mission dioceses and eparchies (of which we are immensely grateful) the DFMC Board has also made funding available from the DFMC reserves for Canadian and non-mission dioceses. Our goal is that no one should miss the 2020 annual meeting for financial reasons.

We want to assure you that we are working with the hotel and other vendors to create the safest venue possible. These arrangements include:

- Facilitating social distancing. To do this we will
 - Reduce the number of people present by not offering guest or spouse registration. Please understand that this is a necessary but temporary measure just for this year.
 - Provide alternative approaches to meals.
 - Expanded meeting and exhibit areas.
- Increased frequency of cleaning with hospital-grade disinfectants on all high-touch surfaces and areas such as lobbies, guest rooms, restaurants, meeting and event spaces, recreational areas, public restrooms, fitness centers, elevator buttons, all employee areas, and more.
- Implementation of enhanced food safety and hygiene protocols for restaurants, room service, and group meetings and events.
- Prominently placed hand sanitizer stations throughout hotel public and employee areas and entrances.
- Exploring purification and sanitization device installation to ensure air quality.
- Protective masks and other equipment worn by hotel colleagues and offered to DFMC members and partners.

The DFMC will continue to follow all government directives; if in September it is not possible due to government regulations to hold the meeting, we are already working with the hotel for alternate dates. Our plan would be to try to hold the meeting if possible, even if at a rescheduled date. If it is impossible to hold the meeting due to government directives even at an alternate date, we will inform everyone of our contingency plans.

We have a great program planned for our members which will provide us all with valuable knowledge and resources. Without giving anything away yet, we have some great sessions planned that will feed your soul as well. Hopefully many of you will be able to join us in Denver to get some much needed and well-deserved rejuvenation of the mind and spirit.

These last two years have been challenging ones, but any difficult situation is more easily dealt with when you are not alone. We know that God is on our side, and as we come together and keep Him the focus, the distractions fall away, and the solutions present themselves. As Jesus said in Matthew 18:20, "For where two or three are gathered in My name, there am I in the midst of them."

I hope to be able to gather with each of you in Denver in September, and for us to celebrate our faith in Christ and having Him in our midst, as we focus on being good fiscal managers of the temporal goods that He has provided the Church. Till then my friends and cohorts, you will all be in my prayers and please keep me in yours.



DFMC MEMBER PROFILE:

Preserving Paychecks in the Pandemic

by Jeanette Fast Redmond

When Utah Governor Gary R. Herbert issued his “Stay Home, Stay Safe” directive in late March, Joan Loffredo was relieved it was not mandatory.

“The diocesan accounting software, Navision, can’t be accessed from home,” she explained. “If we had a stay-in-place [order], I’d have to bring in a pillow.”

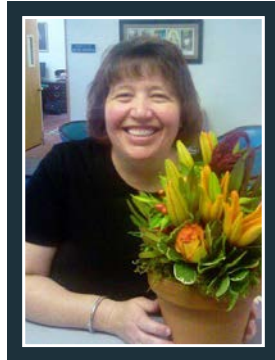
Joan is the diocesan finance officer for the Diocese of Salt Lake City, which serves the entire state of Utah. A lifelong resident of Utah, she grew up in Ogden and earned an accounting degree from Weber State University. After 16 years in public accounting, the securities industry, and an engineering firm, she began to long to contribute more directly to society. The night before she and her siblings took their mother on a birthday cruise, Joan saw an ad for the director of finance position in the diocesan Intermountain Catholic newspaper. She mailed her letter and resume before she got on the plane. Upon her return, she was hired.

That was August 1999. Since then Joan’s work at the diocese has affirmed what she was hoping to find. Being its financial officer is a ministry that encompasses many aspects beyond finance. She finds most fulfilling the ability to “apply my skill set to an organization that serves the community with integrity and compassion and [where] my contribution upholds its fiscal responsibility.”

Diocesan fiscal management as ministry encountered new challenges with this spring’s COVID-19 pandemic. Like many dioceses around the country, the Diocese of Salt Lake City faced immediate consequences in March—largely because of directives curtailing large gatherings, including religious gatherings. Questions quickly arose about how to employ and pay diocesan, parish, and parish school staffs.

“We didn’t want to furlough anyone,” she said. “That’s not who we are.” The people most likely to be furloughed in the diocese, she explained, are the ones who need their paychecks the most.

Diocesan finance can be a ministry of compassion. But the timing was terrible. The directive against large gatherings, she said, meant “we’re losing Palm Sunday and Easter Sunday, two of the biggest resources of the year for



Joan Loffredo

Financial Officer

**DIOCESE OF
SALT LAKE CITY**

Welcome to the DFMC!

Please give a warm welcome to recent members to the DFMC. You can send them a welcome note on the DFMC Member Portal.

- **Ms. Beverly Baker**, Chief Technical Officer, Diocese of Biloxi
- **Ms. Lisa Beck**, Senior Accountant, Archdiocese of Philadelphia
- **Ms. Christine Bogacz**, Director of Parish and School Financial Services, Diocese of Manchester
- **Mr. James Bouchard**, Financial Planning Manager, Diocese of Fall River
- **Ms. Danielle Castille**, Senior Accounting Clerk, Diocese of Lafayette in Louisiana
- **Mr. Doug Culp**, Bishop's Delegate for Administration, Diocese of Lexington
- **Ms. Erin Danaher**, Director, Office of Human Resources, Diocese of Springfield in Illinois
- **Ms. Anne DeCaro**, Senior Accountant, Archdiocese of Atlanta
- **Ms. Beth D'Eramo**, Accounting Manager, Archdiocese of Philadelphia
- **Ms. Ann Duong**, Controller, Diocese of San Diego
- **Ms. Jennifer Fletcher**, Accountant, Archdiocese of New Orleans
- **Ms. Shannon Gaudet**, Financial Planning Analyst, Diocese of Fall River
- **Ms. Anne Levendoski**, Manager of Business Analysis, Archdiocese of Milwaukee
- **Ms. April Liu**, Director of Treasury GRSS & DOE, Archdiocese of New York
- **Ms. Kathryn McCutchan**, Grantwriter, Diocese of Samoa Pago Pago
- **Ms. Joann Nerheim**, Controller, Archdiocese of Denver
- **Ms. Lori Norcia**, Director Human Resources, Diocese of Santa Rosa
- **Ms. Patricia Reinfurt**, Parish Support Manager, Diocese of Rockville Centre
- **Ms. Colette Theriot**, Director of Compliance and Parish Accounting, Archdiocese of New Orleans
- **Ms. Lindsey Valton**, Accounting Manager, Diocese of Fall River
- **Ms. Michelle Villanueva Bell**, Controller, Archdiocese for the Military Services, USA
- **Mr. Joseph Zenteno**, Cash Manager, Archdiocese of New York

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DFMC MEMBER PROFILE: Preserving Paychecks in the Pandemic

collections. And we're losing all the springfests and all the galas that you hold in the springtime."

A glimmer of hope to keep paying employees came with the federal CARES Act, which includes a Paycheck Protection Program (PPP): \$349 billion funded under the Small Business Administration (SBA) Business Loans Program. PPP loans help small businesses fund eight weeks of payroll and related costs. Eligible businesses can stay open and continue paying workers, who can in turn pay their bills and help the economy continue running. Better yet, 100% of the PPP loan can be forgiven if the business follows guidelines.

Just one problem—the Diocese of Salt Lake City reorganized in 2008. Each parish and parochial school in Utah became its own LLC, with the diocese as the sole member of the master series (or umbrella) LLC. "It was our way of trying to separate out all these different parishes to be their own entities," Joan explained. If something happened at one parish, only that parish's finances would be at risk—not all the other parishes in the diocese.

But this structure—intended to ensure financial stability throughout the diocese—created uncertainty when it came to federal legislation to respond to the coronavirus. The CARES Act was preceded by the Families First Coronavirus Response Act, which required private employers of fewer than 500 people to provide two weeks of paid sick leave and expanded family/medical leave for reasons related to COVID-19.

"When Families First came out," Joan explained, "we were on the phone with our attorneys. 'So, are we going to take the stance that we're under 500 [employees]?' The answer was yes—the diocese definitely needed to consider itself an employer of fewer than 500 employees and therefore was obligated to comply with the Families First Act.

Then, when the CARES Act came out, Joan again asked the attorneys, "Are we still going to be able to be still under 500?"

The question was critical. According to the SBA, "A borrower will be considered together with its affiliates for purposes of determining eligibility for the PPP." Even 501(c)(3) nonprofits, combined with affiliates, needed to employ fewer than 500 people to qualify.

So, with the diocese as a master LLC over parish and school LLCs, the issue came down to that question of affiliation. The diocesan master LLC employs fewer than 500 people—but adding the employment numbers from the parish and school LLCs would cause the group to exceed 500 employees and thereby disqualify all of them for PPP loans.

Joan was concerned from a legal standpoint. She asked the attorneys, "Can we really say we're not affiliated [with the parishes and schools]?" That seemed implausible.

Yet she also argued, "We should either be under 500 for all instances, or not under 500. If we're going to be under 500 for the sick leave [the Families First Act], then why aren't we under 500 for the PPP?"

"There was just so much discussion," Joan said. "Yet we knew this program would just be so helpful to all our different locations."

One of the diocesan school principals has a contact with the office of Utah's Senator Mike Lee and communicated the diocese's needs for clarity about its eligibility for the PPP funding. Joan remembers the senator passing the welcome message back through that channel: "Go ahead and apply for it."

"I'm really a rule follower," Joan confesses. "So, when I check the box and say we're not affiliated, I was having a little anxiety."

It turned out that Senator Lee had been urging the SBA to make a religious exemption to the affiliation rule. The SBA officially changed its PPP rule in mid-April to exempt faith-based organizations from the affiliation requirements. "When they came out with the religious exemption . . . and we could just apply under our separate EINs," Joan said, "all this anxiety was just released. I was just like, 'Thank the dear Lord.'"

Meanwhile, as the diocese worked on the affiliation issue, Joan said, "We had everybody getting ready for the application, so everyone was basically set to go" once the rule changed.

"There was such great teamwork within the diocese, for everyone to just pay attention to the emails, to get prepared, to get on board with their banks," Joan said. "Time was of the essence. We knew whoever got in the queue first was going to get the funding." So, the diocese focused first on helping the schools and the parishes with attached schools, because "that's where our payroll is at," Joan explained.

The diocese provided corporate documents, documents of ministry, and the subagreements for each LLC, as well as sending everyone an affiliation exemption to file with their applications. Plus, Joan explained, "We're a nonprofit. We don't have 'owners.'" Banks told them to list the pastor of each parish as a 100% owner in each case. But many pastors who signed the original LLC agreements in 2008 have moved, so the diocese had to prepare and send assignment letters to accompany each parish application and show the succession of pastors for each location.

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“It was just a very stressful time,” Joan said. But “everyone just came together.”

The efforts have paid off. The Diocese of Salt Lake City, at this writing, has received close to 60% of the PPP funding it applied for, or \$5 million of \$8.5 million requested. “It seems like a lot of money,” Joan explained, “but it’s just to pay employees through the end of the fiscal year. It doesn’t mean we don’t also need offertories and so on.”

Joan reflected on her efforts on behalf of the diocese’s employees during the pandemic. “I just want to keep people on the payroll. Just got to keep people employed.” Physical health is only one part of the pandemic health crisis. “Mentally it’s just better to know that you’re still employed,” she said, “and mental health matters too.”

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Nonprofits Get New Rules for Unrelated Business Income Classification

Jennifer Gniady and Mark Chopko from Stradley Ronon

The IRS published new proposed rules for exempt organizations intended to clarify calculation of unrelated business income and permitted deductions on Friday, April 24th. The new proposed rules are intended to supply exempt organizations with a clear way to determine which unrelated businesses must be separated out for purposes of calculating unrelated business income tax (UBTI). This issue became of critical importance after 2017 changes to the tax code required exempt organizations to report UBTI for each separate unrelated business, rather than aggregating unrelated business activities together. The IRS has called for comments to be submitted by June 23 and will hold a public hearing on the rules if requested. Final regulations will apply to tax years beginning on or after the date the final rules are published. The changes will also result in an updated Form 990-T and its schedules.

For more background on how this situation developed, it has long been the case that exempt organizations pay income tax on the income received from unrelated trades or businesses, less a permitted deduction for up to \$1,000. Previously, exempt organizations were permitted to calculate the UBTI by aggregating income and deductions for all of the unrelated businesses providing income (or losses) to the organization. When paired with the additional deduction allowed to exempt organizations, the result was that it was possible to amass a significant amount of unrelated business income and still avoid paying taxes by aggregating the income and deductions of all unrelated businesses. Under the 2017 Tax Cuts and Jobs Act, unrelated business taxable income (UBTI) was required to be calculated for each individual unrelated business of an exempt organization, disallowing the aggregation that permitted an organization to avoid taxes. However, Congress did not supply what criteria should be used to determine whether an exempt organization had separate unrelated trades or businesses. While statutes, regulations, and cases have focused extensively on how to determine whether an activity is an unrelated trade or business, no general definition exists to determine whether those activities are part of a single or separate unrelated business.

NAICS Code Classification

The resulting rules build on prior guidance that the Treasury Department and IRS were considering using the North American Industry Classification System (NAICS) for determining whether an exempt organization has separate unrelated businesses for UBTI purposes. Specifically, earlier notices describe an organization's reasonable, good-faith determination of separate businesses as including identification based on the full six-digit NAICS code for the business activity. However, the proposed rules require an organization look only at how the business activity would be classified under the first two digits of the NAICS code. These first two digits refer only to the broad sector of the economy, in contrast with the full six digits that specify further the general category of economic activity, its subsector, the industry

group and the primary activity of the business. The change reflects nearly unanimous reactions that the previous 6-digit classification would create a significant burden on organizations trying to determine which of more than 1,000 NAICS codes best fit the unrelated activities.

Additionally, the new regulations only require exempt organizations to report each NAICS 2-digit code business once, even if that business activity is carried on at multiple locations across different geographic areas. All activities within the NAICS sector will constitute a single unrelated business for purposes of reporting income on the 990-T. However, under the rules the NAICS code selected for a business activity cannot be changed later by the organization unless it can show the existing code was chosen due to an unintentional error. The new rules also do not provide specific details on treatment of business activities that are not neatly matched to the NAICS codes, resulting in widespread use of the "catch-all" 900099 code for business that could now be grouped together.

Allocation of Deductions

Currently, for unrelated business activities the organization must determine how to allocate expenses that apply to more than one activity it conducts. However, the proposed rules do make clear that allocations between the exempt and unrelated businesses may not reasonably be done based solely on the

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ratios of gross income to each business. Further guidance is still expected on the specific allocation of deductions among unrelated businesses. In the meantime, recommendations from AICPA continue to support a “reasonable and necessary” standard applied consistently across activities from year to year with attention to eliminating any double counting with the organization overall.

Treatment of Investments

For many tax-exempt organizations, investment activities are a significant source of revenue that is traditionally excluded as unrelated business income. Under the new proposed rules, there is now an exclusive list of investment activities that an exempt organization can treat as a single unrelated business for UBTI purposes. The changes mean organizations may need to pay closer attention to their sources of investment income. Below are a few areas to note for classification of investment activities.

- Income from debt-financed properties held for investment purposes would be included in an unrelated business under the NAICS code for investment activities. This excludes property already included as rental income, which would be identified separately under the NAICS code for real estate rental and leasing.
- Payments from controlled subsidiaries may not be aggregated with other passive revenue streams as a single business. Specified payments from a controlled entity can be aggregated together, but payments from multiple controlled entities cannot be aggregated together but must be counted as a separate silo for each controlled entity.
- Insurance activities now differentiate from commercial-type insurance activities, as one business activity, and insurance income from controlled foreign corporations, as another.
- Income from each S corporation will be treated as an interest in a separate trade or business with all income from each S corporation included in one silo. S corporations will track the qualifying partnership interest rules for the de minimis or control tests to determine if they may be combined with other investment activities.
- Partnerships that meet the de minimis or control tests will be allowed to be aggregated with other investment income if they are qualifying.
- Qualifying partnership interests held by an exempt organization can continue to be aggregated investment income for UBTI purposes but cannot later be reclassified using the NAICS codes unless it ceases to be a qualifying partnership interest. The rules also propose changes to how de minimis holdings in a partnership are considered, limiting the organization to not more than 2% of the partnership’s profit or capital interest relying on the Schedule K-1.

However, under this lower holding limit, the organization is no longer required to include interests held by disqualified persons. Under the control test, the organization can hold no more than 20% of the capital interest in the partnership and cannot hold control over the partnership. The proposed regulations also provide additional facts and circumstances that would indicate control.

Unsettled or Open for Comments

The new proposed rules do not fully address all the concerns introduced by the 2017 changes. Areas where further comments and clarifications are noted include:

- The Treasury notes that the current “any reasonable method” approach to deductions connected to unrelated business remains difficult for the IRS to administer and provides little certainty to organizations.
- Comments are requested on factors that should be considered to determine whether an investment activity is an UBTI activity and how that should be reported.
- Clarifications that confirm the general rules for ordering net operating losses (NOLS) do not accommodate recent changes under the CARES Act that relax the rules as part of the response to the coronavirus.
- Comments are requested regarding calculations for the public support test, which can vary based on the income silo results, to reduce the burden of organizations being required to provide two different calculations.
- Guidance on whether a higher percentage of interest in partnerships should be permitted in taxable years when the exempt organization would be unaware of these changes ahead of its Schedule K-1.

These areas, along with further developments on how these new rules affect reporting unrelated business income, will be ones to watch for the coming year. Exempt organizations may want to take the time ahead of the new form changes and their next reporting year to evaluate unrelated businesses and how they fit together under the new rules. We also encourage participation in the comment process to further shape the implementation of the rules.

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Federal Legislative and Regulatory Issues

Changes in SECURE Act Impact Church Plans

In December 2019, Congress enacted the “Setting Every Community Up for Retirement Enhancement Act of 2019” (the “SECURE Act”). Many of the provisions of the SECURE Act do not apply to non-electing church plans, but some do, notably those dealing with certain 403(b)(9) plans and distributions. The following is a summary of the most significant changes affecting church plans as well as those most relevant to churches and church staff.

Non-Qualified Church-Controlled Organizations Can Participate in 403(b) Plans Consisting of a Retirement Account

Assets of a tax-sheltered annuity plan (a section 403(b) plan) generally must be invested in annuity contracts or mutual funds. However, the restrictions on investments do not apply to a retirement income account, which is a defined contribution program established or maintained by a church, or a convention or association of churches, to provide benefits under the plan to employees of a religious, charitable, or similar tax-exempt organization.

Certain rules prohibiting discrimination in favor of highly compensated employees, which apply to section 403(b) plans, generally do not apply to a plan maintained by a church or qualified church-controlled organization. Prior to the enactment of the SECURE Act, it was unclear whether employees of nonqualified church-controlled organizations may be covered under a 403(b) plan that consists of a retirement account. A nonqualified church-controlled organization is generally a 501(c)(3) organization controlled by or associated with a church which receives more than 25 percent of receipts from the sales of goods or services or government grants.

The SECURE Act clarifies that a retirement income account may cover:

1. A duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of compensation;
2. An employee or an organization that is exempt from tax under section 501 and is controlled by or associated with a church or convention or association of churches; and
3. An employee who is included in a church plan under certain circumstances after separation from the service of a church, a convention or association of churches, or an organization described above.


Treatment of Custodial Accounts on Termination of 403(b) Plans

Previously, when plan administrators terminated a section 403(b) plan, plan holders and/or their surviving beneficiaries may be hit with an unexpectedly large income tax bill, on top of surrender charges and fees.

The SECURE Act provides that the Secretary will issue guidance that will provide that, if an employer terminates a 403(b) plan, the account can be distributed in-kind to a participant or beneficiary and does not have to be distributed in cash. Such

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an individual custodial account will be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to compliance with the 403(b) rules in effect at the time the individual custodial account is distributed.

Increase in Required Minimum Distribution Age

Prior to the enactment of the SECURE Act, an individual was required to take withdrawals (“required minimum distributions” or “RMDs”) annually from all employer sponsored retirement plans (including 403(b) plans) starting with the year that the individual reached the age 70 ½, or, if later, the year in which the individual retired.

The SECURE Act changes the age on which the beginning date for RMDs is based, from the calendar year in which the employee or IRA owner attains 70 ½ years to the calendar year in which the employee or IRA owner attains 72 years. Prior law continues to apply to employees and IRA owners who attain age 70 ½ prior to January 1, 2020.

IRA Contributions for Persons who Have Reached Age 70 ½

Under prior law, an individual who had attained age 70 ½ by the close of a year was not permitted to make contributions to a traditional IRA (note: this restriction did not apply to a

Roth IRA). In addition, employees over age 70 ½ were not precluded from contributing to employer-sponsored plans.

The SECURE Act repealed the prohibition on contributions to a traditional IRA by an individual who has attained the age of 70 ½. This provides such working individuals with current income, as well as the potential for additional retirement savings. An individual working past the age of 70 ½ may contribute to an employer-sponsored retirement plan or to a Roth IRA or traditional IRA. This provision applies to contributions made for taxable years beginning after December 31, 2019.

Penalty-Free Distributions from Retirement Plans for Births and Adoptions

Prior to the enactment of the SECURE Act, a distribution from a qualified retirement plan, a tax-sheltered annuity plan (a section 403(b) plan), or an IRA generally was included in taxable income for the year distributed. These plans are referred to collectively as “eligible retirement plans.” In addition, unless an exception applied, a distribution from a qualified retirement plan, a section 403(b) plan, or an IRA received before age 59 ½ was subject to a 10-percent additional tax (referred to as the early withdrawal tax) on the amount includible in income.

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CONTINUED FROM PAGE 9

Federal Legislative and Regulatory Issues

Changes in SECURE Act Impact Church Plans

The SECURE Act creates an exception to the 10-percent early withdrawal penalty in the case of qualified birth or adoption distributions from an applicable eligible retirement plan. In addition to an exception to the 10-percent early withdrawal penalty, qualified birth or adoption distributions may be recontributed to an individual's applicable eligible retirement plans.

The Ways and Means Committee defines a qualified birth or adoption distribution as a distribution from an applicable eligible retirement plan (including qualified retirement plans, section 403(b) plans, and IRAs) to an individual if made during the one-year period beginning on the date on which a child of the individual is born or on which the legal adoption by the individual of an eligible adoptee is finalized. An eligible adoptee means any individual (other than a child of the taxpayer's spouse) who has not attained age 18 or is physically or mentally incapable of self-support. The provision requires the name, age, and taxpayer identification number of the child or eligible adoptee to which any qualified birth or adoption distribution relates to be provided on the tax return of the individual taxpayer for the taxable year.

The maximum aggregate amount which may be treated as qualified birth or adoption distributions by any individual with respect to a birth or adoption is \$5,000; however, the maximum aggregate amount applies on an individual basis. Therefore, each spouse separately may receive a maximum aggregate amount of \$5,000 of qualified birth or adoption distributions (with respect to a birth or adoption) from applicable eligible retirement plans in which each spouse participates or holds accounts. —M.O.

See: Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, Pub. L. 116-94 (Dec. 20, 2019)

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Federal Litigation

DOJ Warns that Government May Not Subject Religious Activities to Coronavirus Restrictions that are Inapplicable to Comparable Secular Activities

Efforts to prevent the spread of the coronavirus have raised questions about the power of government to restrict constitutionally protected conduct, including religious conduct.

On April 14, in a written statement, Attorney General William Barr cautioned that religious activities generally may not be subject to government restrictions that are inapplicable to comparable secular activities. The Attorney General writes:

[E]ven in times of emergency, when reasonable and temporary restrictions are placed on rights, the First Amendment and federal statutory law prohibit discrimination against religious institutions and religious believers. *Thus, government may not impose special restriction on religious activity that do not also apply to similar nonreligious activity.* For example, if a government allows movie theaters, restaurants, concert halls, and other comparable places of assembly to remain open and unrestricted, it may not order houses of worship to close, limit their congregation size, or otherwise impede religious gatherings. *Religious institutions must not be singled out for special burdens.* [Emphasis added.]

Today [on April 14], the Department filed a Statement of Interest in support of a church in Mississippi that allegedly sought to hold parking lot worship services, in which congregants listened to their pastor preach over their car radios, while sitting in their cars in the church parking lot with their windows rolled up. The City of Greenville fined congregants \$500 per person for attending these parking lot services – while permitting citizens to attend nearby drive-in restaurants, even with their windows open. The City appears to have thereby singled churches out as the only essential service (as designated by the state of Mississippi) that may not operate despite following all CDC and state recommendations regarding social distancing.

As we explain in the Statement of Interest, where a state has not acted evenhandedly, it must have a compelling reason to impose restrictions on places of worship and must ensure that those restrictions are narrowly tailored to advance its compelling interest. While we believe that during this period there is a sufficient basis for the social distancing rules that have been put in place, the scope and justification of restrictions beyond that will have to be assessed based on the circumstances as they evolve. –*M.M.*

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Other Issues

IRS Extends Form 990 Tax Filing Relief to Nonprofits

In response to the COVID-19 pandemic, the Internal Revenue Service (IRS) has offered tax payment and filing extensions to a variety of taxpayers and businesses. Until now, it has been unclear whether such extensions apply to tax-exempt organizations.

On April 9, 2020, the IRS issued Notice 2020-23, which provides additional relief to affected taxpayers with a federal tax payment obligation or federal tax return or other form filing obligation, which is due to be performed (originally or pursuant to a valid extension that ends) on or after April 1, 2020, and before July 15, 2020. Notice 2020-23 grants such taxpayers an automatic postponement to file and/or pay to July 15, 2020.

The Notice also granted relief to a variety of time-sensitive actions, including those listed in Rev. Proc. 2018-58. Section 10 of Rev. Proc. 2018-58 covers certain tax-exempt entities assuming they qualify as an affected taxpayer. Affected taxpayers are defined in the Notice as any person or organization performing a “time-sensitive action” between April 1, 2020, and before July 15, 2020. Time-sensitive actions relevant to nonprofits and foundations include:

- The filing of Form 990 annual returns;
- The filing of Form 1023, Application for Recognition of Exemption under 501(c)(3); and
- Tax-exempt hospital organizations conducting a community health needs assessment.

Form 990s with a previous six-month extension to file must file on or before July 15, 2020. If the original due date of Form 990 is May 15, 2020, the organization may either:

- File an extension of time through November 15, 2020, on or before May 15, 2020; or
- File an extension of time to file on or before July 15, 2020, extending the final due date to November 15, 2020.

The notice is applicable to an expansive list of federal returns and payments applicable to tax-exempt organizations with an original deadline of May 15, 2020, including Form 990/EZ/N, Form 990-T, and Form 990-PF.

This relief is automatic; affected taxpayers do not have to call the IRS, file any extension forms, or send letters or other documents to receive this relief. However, affected taxpayers who need additional time to file may choose to file the appropriate extension form by July 15, 2020, to obtain the extension. All filings may not go beyond the original statutory or regulatory extension date. —M.O.



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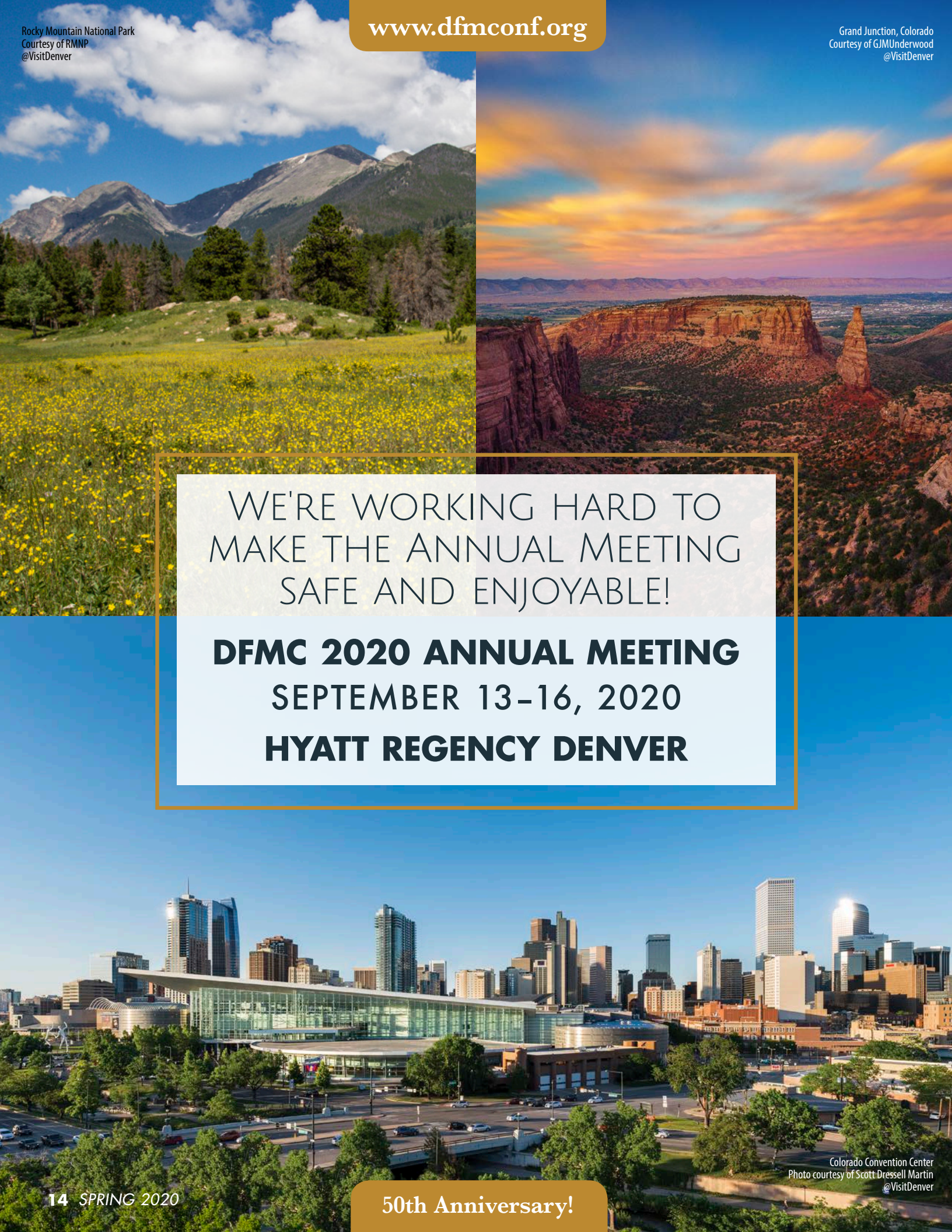
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1971 DFMC First Executive Committee Tucson, AZ



Pictured L-R:

- 1)** Msgr. Joseph P. Murphy 1970-75, **2)** Msgr. Joseph P. Herron 1969-73 (Deceased 2015),
3) William H. Hinkes 1969-73, **4)** Jack St. Martin 1970-75 (Deceased 2015), **5)** Don Cozzetti 1969-73 (Deceased 2005),
6) William Kelty 1970-74 (Deceased 2013), **7)** Msgr. Francis Tambellini 1969-73 (Deceased 1990),
8) Richard Belknap 1969-73, **9)** Msgr. Benjamin Hawkes 1970-74 (Deceased 1985)



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Deletion Addition Correction

What would you like to see in the Herald?

Members are encouraged to submit items as well as articles for consideration in the **Herald**. Notices of Employment Opportunities are published on the website as they are received in the National Office.

The Herald Publication Schedule

The **Herald** will accept notices and articles for future issues according to the following schedule:

Deadline Date		Publication Date
April 30	<i>Spring Issue</i>	May 31
July 30	<i>Summer Issue</i>	August 30
October 31	<i>Fall Issue</i>	November 30
January 31	<i>Winter Issue</i>	February 28

We would appreciate your comments & input on items for future issues.

Please Mail To: **DFMC NATIONAL OFFICE, 4727 E. Bell Road, Ste. 45-358, Phoenix, AZ 85032**

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October 3-6, 2021

NASHVILLE, TN - Gaylord Opryland Resort & Convention Center

September 25-28, 2022

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Canon Law Society of America (CLSA)

October 12-15, 2020

ST. LOUIS, MO - The Chase Park Plaza

Diocesan Information Systems Conference (DISC)

June 16-18, 2020

AUSTIN, TX - **CANCELLED**

June 8-10, 2021

AUSTIN, TX - Austin Airport Hilton



International Catholic Stewardship Council (ICSC)

September 27-30, 2020

ANAHEIM, CA - Hilton Anaheim Hotel

The Resource Center for Religious Institutes (RCRI)

September 29-October 4, 2020

ST. LOUIS, MO - Hyatt Regency St. Louis at the Arch

National Association of Church Personnel Administrators (NACPA)

May 3-5, 2020

ALBUQUERQUE, NM - **CANCELLED**

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