



# The Church as a Taxpayer Manual



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# The Church as a Taxpayer – Say it is Not So!!

*2020 Edition*

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# The Church as a Taxpayer – Say it is Not So!!

2020 Edition

## Introduction

It has been said that there are only two things that are certain – death and taxes!! Many ministers are surprised to learn that churches have tax-related liabilities (and responsibilities), just like individuals. Those ministers have heard that churches are “tax exempt” and have taken that to believe that churches have no responsibilities in regards to taxes whatsoever. Nothing could be farther from the truth.

While churches are “tax exempt,” that exemption applies in only a limited manner – and only applies in regards to certain tax liabilities. In other situations, churches are treated just like all other taxpayers and are subject to the same taxes as everyone else.

The purpose of this manual is to give ministers and church officials the foundational material for understanding the applicable tax laws that apply to churches. The manual is not an exhaustive legal explanation of those laws but is rather a brief overview from a non-legal perspective. Since even the smallest local governmental entity may have taxing authority, this manual is not meant to cover the details of each of those laws but rather to provide overall general guidance to ministers and churches.

To understand when tax “exemption” applies, it is necessary to begin at the genesis of the tax status of churches.

## Types of Tax Exempt Status

### Federal Exemption – 501(c)(3) Status

Ministers and church staff often use the line that “we are a 501(c)(3) tax-exempt organization and therefore we don’t have to worry about taxes.” Many of the people saying that do not know what 501(c)(3) says or its origination. Actually, 501(c)(3) comes from the United States Internal Revenue Code (26 U.S.C. § 501(c)(3)). This provision of the law says that organizations covered under 501(c)(3) shall specifically be exempt from paying *federal income taxes*, but also includes the following language:

*(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition*

*(but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.*

What one word is missing in Section 501(c)(3) that ministers and church staff are looking for? Do you see the word “church” mentioned anywhere in the above paragraph of the Internal Revenue Code? Neither the word church nor any derivative of such can be found in Section 501(c)(3). The closest words that can be found that ties this section to churches is the provision that deals with an entity that is “organized and operated exclusively for religious” purposes.

It should be noted that Section 501(c)(3) specifically notes that to qualify for this tax exempt status you must be a “corporation” – the first word of the paragraph. Court decisions, tax rulings, and letters from the Internal Revenue Service over the years have interpreted this requirement loosely, meaning that even an unincorporated entity that operates “exclusively for religious” purposes meets this definition. However, what is abundantly clear is that an individual cannot have Section 501(c)(3) tax-exempt status alone.

### **Obtaining 501(c)(3) Status**

Most organizations – not including churches – must file an extensive application form with the Internal Revenue Service ([Form 1023](#)) to obtain 501(c)(3) status. Along with the application, a filing fee of up to \$850 is required.

For those organizations that are required to file an application to receive 501(c)(3) status, there is a new short-form application process now available, called the [Form 1023-EZ](#). If the organization has gross annual receipts of less than \$50,000 and assets less than \$250,000, the organization can use the [Form 1023-EZ](#). This shortened application process must be filed completely on-line. The benefit is that it also comes with a reduced application fee of \$275.

However, churches do **not** have to file Form 1023. If a church is organized as a religious entity as set out in the Internal Revenue Code and follows the guidelines in Section 501(c)(3), the church is **automatically** treated as tax exempt under Section 501(c)(3) without having to file anything with the Internal Revenue Service. The church will maintain the tax-exempt status unless it violates one of the specific provisions of Section 501(c)(3) which will be discussed later. Again, absolutely no action has to be taken by a church to obtain tax exempt status under Section 501(c)(3).

In October 1972, the Internal Revenue Service issued a “group letter ruling” to the Church of God denomination. This letter basically provides that all churches that are associated with and follow the tenets and governance doctrines of the Church of God, Cleveland, Tennessee, are immediately recognized as tax exempt under Section 501(c)(3). This group letter ruling offers another layer of protection on top of the automatic exemption offered to churches.

Although a church has tax exempt status without having to do anything, as well as under the group letter ruling, it is often advisable to file a [Form 1023](#) (or [Form 1023-EZ](#)) to obtain a specific ruling from the IRS on the church’s status as a tax exempt entity under Section 501(c)(3). While the local church’s legal counsel or certified public accountant can provide specific guidance on this issue, filing a Form 1023 should be considered if the church is involved in any venture other than purely religious activities. For example, if the church has a daycare, preschool, thrift store, or other revenue generating activities, seeking a ruling from the IRS by filing a Form 1023 may be a good idea.

### **Losing 501(c)(3) Status**

A church’s tax exempt status under the United States Internal Revenue Code (26 U.S.C. § 501(c)(3)) can be lost. Section 501(c)(3) specifically prohibits three different activities:

1. **Inurement** – No part of the organization’s net earnings can inure to the benefit of a shareholder or individual. While a church or any other organization covered under Section 501(c)(3) can pay staff members, including pastors, the compensation must be appropriate for the duties performed. Excessive “inurement” can raise questions about the organization’s tax exempt status. In a church setting, this issue often arises when a local congregation wants to give the pastor an expensive gift, such as a house.
2. **Lobbying** – Section 501(c)(3) prohibits a “substantial part” of the organization’s funds from being used for legislative lobbying.
3. **Political Activity** – all tax exempt Section 501(c)(3) entities are prohibited from participating in or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office. There are very limited exceptions to this rule but this forum does not allow for a discussion of those complicated exceptions.

### **Benefits of 501(c)(3) Status**

Having tax exemption under Section 501(c)(3) keeps a church from having to pay federal income taxes on the funds that come into the church. If a church did not have this tax-exempt status, from 15% to 40% of every dollar that was taken in by the church would have to go to the Federal government as income tax. Therefore, a church should make every effort to protect their 501(c)(3) tax exemption and not even get close to the line where such exemption could be called into question. Having 501(c)(3) status is a great financial benefit to the local church.

## **State Tax Exemption**

### **State Income Tax Liability**

If a religious entity has exemption under the federal 501(c)(3) provision, state law in every state will exempt the entity from state income taxation. Please note that this exemption is solely for state income taxes. Just as revenue coming into the church is exempt from federal income taxes, it is also exempt from state income taxes.

However, it must be very clear that the exemption ONLY applies to income taxes.

### **State Sales Taxes**

When purchases are made by consumers, whether at Wal-Mart or the local grocery store, sales taxes are added to the purchase. Those sales taxes go to fund the state (and local) government. Many church officials assume that because they are a 501(c)(3) tax-exempt entity, the church does not have to pay sales taxes. Whether you are a 501(c)(3) tax-exempt entity does not determine whether you owe sales taxes. While the 501(c)(3) status exempts you from income taxes, it does not automatically exempt you from sales taxes.

Some states offer NO exemption to non-profit organizations for state sales taxes. However, in other states a 501(c)(3) entity, including a church, can obtain exemption from state sales taxes. At the present, every state that allows non-profit entities to be exempt from states sales taxes requires that an exemption application must be filed with the state's tax commission, state department of revenue, or some other similar state tax entity in that state. Then to be able to claim the sales tax exemption, the church official generally has to present a copy of the sales tax exemption "letter" at the point of purchase.

It is interesting to note that most of the Bible-belt states across the south no longer offer state sales tax exemption to churches. Tennessee is one of the few states that still allow churches to avoid paying state sales taxes by filing for exemption. On the other hand, several states in the northeast continue to provide sales tax exemption for churches and other non-profits, after making sufficient application.

The list of states that allow for sales tax exemption changes continuously as states seek to obtain new sources of revenue to meet budget shortfalls. Therefore, each church should contact your state tax authority or state department of revenue to determine if your state 1) allows for sales tax exemption and 2) if so, the application process for obtaining sales tax exemption.

While you may consider the savings of 4.00% to 9.75% not to be worth all the effort of filing an application for exemption, you will be surprised how much a church can save by not having to pay sales taxes. If buying a computer, the taxes saved could run into the hundreds of dollars. If buying church furniture or pews, the savings could run into thousands of dollars.

Application should be made immediately since it will take a minimum of 30 days for the application process to be approved. Do not wait until you are ready to make a large purchase to seek an application for sales tax exemption from your state.

Further, the church officials should be aware that the sales tax exemption certificate or letter is generally only valid in the state in which it was issued. So, for example, a tax exemption certificate issued to a church in Tennessee would probably not be accepted by a retailer in Alabama that the church was buying goods from for the church.

## **Local Tax Exemption**

While few churches experience problems with the federal and state exemptions for income taxes, and further while the state sales tax exemption only applies in a limited number of states, most churches at one time or another will have to deal with taxation on the local level. Income and sales taxes are dealt with at the federal and state levels but at the local level, taxation generally concerns property or “use” taxes.

### **Local Property Taxes**

As has been repeated earlier, having 501(c)(3) status does not automatically grant exemption from taxes levied on the local level. The most widely applied local tax is property taxes, assessed either based on the value of the property (often called an ad valorem tax) or on the size or use of the property. While sales taxes and state income taxes support the operation of state government, property taxes are often the only source of income for a local governmental jurisdiction. These local jurisdictions with taxing authority may include counties or parishes, cities and/or towns, school districts, utility districts, and special taxing authorities, and they will vary by state.

If a church is exempt from federal income taxes, state income taxes, and state sales taxes, isn't it logical to assume that the church would also be exempt from local property taxes? While that would be a logical assumption, it would also be wrong!

Historically, church property of all types was exempt from local property taxes. Whether the property was a church building, parking lot, ball field, parsonage, or vacant land, the property was most likely exempt from taxation as long as the proper taxing officials were clearly aware that the property was owned by a church.

Regrettably, the historical property tax exemption given to churches on all church-owned property has quickly gone away as local governments have faced a growing need to increase revenue.

So what church property is exempt from local property taxes? Almost universally across the nation it can be assumed that the local church's sanctuary facility will be exempt from local property taxes. In many jurisdictions no action is required to obtain this exemption other than specifically notifying the local taxing authority or assessor when the sanctuary facility is purchased or constructed. However, it should be noted that in some jurisdictions the local congregation must notify the taxing authority or assessor annually or every few years to continue their property tax exemption. If the church is required to file regularly to keep the property tax exemption – and fails to do so timely, property taxes can be assessed and are often extremely difficult, if not impossible, to get waived once they have been assessed by the local taxing authority.

While it is noted that the sanctuary facility is almost universally exempt from property taxes, the exemption may be questioned if the sanctuary facility is used for multiple purposes that are not all religious in nature or if the sanctuary facility is located in a commercial type structure, such as a “strip” mall. If the taxing authority believes that activities besides purely religious worship are going on in the sanctuary facility, they may seek to levy property taxes against the facility.

Once you get past the generally available exemption of property taxes on the sanctuary, then every single taxing authority may treat other church property differently. Many jurisdictions continue to grant property tax exemption to church-owned educational facilities, church-owned parking lots, and even church-owned parsonages (as long as ministerial staff occupies the parsonage.) On the other hand, some local jurisdictions have started taxing some or all of church-owned property that is not a part of the actual sanctuary facility.

Parsonages have come under the most attack as many jurisdictions seek to raise revenue. The local taxing authority, while being able to justify tax exempt status for a sanctuary facility, finds it more difficult to grant tax exemption to a church-owned house. It should be noted that if the church-owned house is rented out, it almost always loses its tax exempt status.

Vacant land, even land purchased in contemplation of building a church sanctuary, is also a major target for taxation. Many jurisdictions do not grant tax exemption to church-owned vacant land, including ball fields that are used only occasionally.

To make the situation even more confusing, there are often different taxing jurisdictions that cover the same property. For example, property taxes on the same property could be assessed by a city, a county or parishes, a sewer district, a water district, a storm water district, a fire district, etc. In some situation, those various taxing authorities may apply different rules as to what church property is exempt and what church property is not exempt. To make sure that unnecessary taxes are not levied against church property, an official of the local church should



contact each potential taxing jurisdiction to determine if the church is exempt from taxation, what process has to be followed to obtain exemption, and to determine if the exemption is good for as long as the church exists or if a regular re-application process is required.

### **Fees vs. Taxes**

The latest effort by some local taxing jurisdiction is to assess “fees,” rather than taxes. While it is a revenue collection process, the assessment of fees does not come with the same exemptions that certain property taxes may have.

In many jurisdictions, “fees” are often now being assessed in regards to storm water runoff, rather than raising property taxes. Since large parking lots are a major contributor to storm water runoff, churches that have parking areas are often hit hard with the storm water runoff “fees.” In one case, storm water drainage “fees” in excess of \$200,000 per year were assessed against a local congregation – even though their entire property was exempt from property taxes.

Other fees are often assessed for high water usage, high sewage usage, and fire protection. Churches generally have very little leverage in getting these fees waived even though they are tax exempt for property tax purposes. While churches should attempt to have these fees waived or at least seek to get their costs mitigated, generally the local taxing authority is going to contend that the property tax exemption provisions do not apply to these separately assessed fees.

## **Additional Tax Reporting Issues**

### **Employer Identification Number (EIN)**

The Federal Employer Identification Number, commonly called the EIN, is simply what its name implies – an identification number issued to an employer that identifies that entity within the federal government system. The best analogy is to consider an employer’s EIN number to be the equivalent of an individual’s Social Security Number. An EIN grants no special benefits or privileges, it simply identifies the employer/church in the federal government system.

Too often, misinformed church officials consider the EIN number to be either their 501(c)(3) tax exempt number or their state sales tax exemption number. It is neither. All employers, whether tax-exempt or not, are required to have an EIN number just like all individuals are supposed to have a valid Social Security Number.

Every church should have their OWN federal EIN number – not one issued to the state or regional office, not one issued to a neighboring church, but their own.

The EIN number is required to be included on all tax reports filed with the federal government. The church's EIN number must be on every Form W-2 and Form 1099 issued, as well as on the Form W-3 and Form 1096 filed with the Internal Revenue Service.

A simple electronic process now exists to obtain a Federal Employer Identification Number. Previously, a church or any other employer had to file a paper copy of IRS Form SS-4 to get an EIN number. However, now a church official can simply go to the Internal Revenue Service's web site and make application for an EIN number online. The direct site can be accessed at the following address: <http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>.

If a church has a different subsidiary entity, such as a daycare or school, generally it is advisable for that separate entity to obtain its own EIN number.

## **EIN and the IRS Form 8822-B**

As just noted, every church is required to have an Employer Identification Number (EIN) to open a bank account, put on IRS Form W-2 for their pastor and employees, and to transact other business. To get an EIN number for the church, assuming that you do not have one, a "responsible party" must complete a Form SS-4 or use the IRS electronic application form discussed above.

Since 2010, the application for an EIN number has required the name and Social Security number of the "responsible party" making the application. A "responsible party" is defined as a person who has a level of control over the funds or assets of the entity. For a church, a "responsible party" would be the pastor, church treasurer, or maybe even a board member.

As you might imagine, the "responsible party" often changes in a church situation due to a number of reasons, including resignation and death – and further, prior to 2010, the IRS did not have information about a "responsible party" listed on the EIN applications. To address this issue and to maintain a contact person – or a "responsible party" – for each EIN issued, the Internal Revenue Service has adopted an entirely new requirement to alleviate this problem.

Beginning January 1, 2014, any entity with an EIN must file [Form 8822-B](#) to report the latest change to its "responsible party." [Form 8822-B](#) must be filed **within 60 days** of the change. If the change in the identity of the "responsible party" occurred before 2014, and the church has not previously notified the IRS of the change, you should have filed [Form 8822-B](#) before March 1, 2014.

The following suggestions are offered:

- 1.) Any church that received an EIN number prior to 2010 should complete a Form 8822-B *immediately* so that the IRS has a “responsible party” on file for the church.
- 2.) Any church who obtained an EIN since 2010 and has had a change in the “responsible party” should file a Form 8822-B *immediately* to name a new “responsible party.”
- 3.) Any church, regardless of when you received your EIN and you do not know if a “responsible party” was listed, should file a Form 8822-B *immediately* to name a new “responsible party.”
- 4.) If you believe that a former pastor may have been the “responsible party” listed on the EIN application, you should file a Form 8822-B *immediately* to name a new “responsible party.”

It actually may be good practice to consider filing a [Form 8822-B](#) going forward every time that your church has a pastoral change. Again, going forward, the Form 8822-B must be filed within 60 days of a change in the “responsible party.”

There is currently no penalty for not updating the name of the “responsible party.” However, if the Internal Revenue Service does not have proper contact information, the church may not receive timely notices of deficiencies or demands for taxes from the IRS, and such may lead to penalties and additional interest charges.

While completing the [Form 8822-B](#) is a new requirement from the Internal Revenue Service, following through with such should keep the church adequately informed about tax matters impacting them.

## Payroll Tax Withholdings

Some churches have wrongfully contended over the years that they are not required to withhold payroll taxes on their employees. While a church is not allowed to withhold payroll taxes on a minister, the church **must** withhold federal income taxes, as well as Social Security taxes and Medicare taxes (FICA) on **all** other employees, just as a secular employer must do. This includes the matching contributions that must be paid by the employer for Social Security and Medicare taxes.

*(NOTE 1: A church may withhold federal income taxes on a minister, including an additional amount to cover his SECA (or self-employment) tax liability, if the minister voluntarily agrees for such to occur. This subject requires a detailed analysis and this manual does not allow the forum for such. More on this topic can be obtained by reviewing the [Treasurer’s Manual](#) and the [Ministers’ Compensation Manual](#), both available without charge at [www.benefitsboard.com](http://www.benefitsboard.com).)*

*(NOTE 2: There is a very limited exception for certain churches to seek exemption from having to pay certain payroll taxes. Again, this subject requires a detailed analysis and this manual does*

*not allow the forum for such. However, the exception is so limited that church officials should always assume that a church must withhold and pay payroll taxes on its' employees.)*

*(NOTE 3: Because each state has different state income tax laws, the application of each of those state's laws are not a topic of discussion in this manual. There are some states that do not have state income taxes while others have a highly aggressive state income tax structure. If your state has a state income tax, you should assume that it will follow a similar withholding process and reporting process as required by the federal government. However, church officials should contact the state department of revenue or the state tax commission to determine the specific process.)*

### **IRS Form W-4**

The first step in paying payroll taxes on employees is having the employee properly complete an IRS Form W-4. The Form W-4 with instructions can be accessed directly on the IRS's web site at <http://www.irs.gov/pub/irs-pdf/fw4.pdf>. The W-4 should be completed by each employee and then kept on file by the church. The W-4 directs the church's accounting office on how many dependents and what deductions/exemptions the employee is claiming. An employee should update his/her Form W-4 anytime there is a life-changing event in their life, such as a death of spouse, marriage, child birth, etc.

### **IRS Publication 15 (Circular E)**

Once the employee completes the Form W-4, the church's accounting office can then use the tables in IRS Publication 15 (Circular E) to determine the amount of income taxes that must be withheld out of the employee's paycheck. Publication 15 (Circular E) can be accessed on the IRS's web site at <http://www.irs.gov/pub/irs-pdf/p15.pdf>. *(NOTE: This publication is often updated when Congress passes different taxes laws. Please make sure you have the latest version and any addendums.)*

### **Social Security and Medicare Withholdings (FICA)**

Each employee must have Social Security and Medicare taxes withheld from their paychecks – and that amount must be equally matched by the church. The Social Security tax is 6.2% of each employee's wages while the Medicare tax is 1.45% of the person's wages, equaling 7.65%. The 7.65% withheld from the employee's wages are then matched with another 7.65% paid by the church, equaling a total of 15.3%.

## Depositing Taxes

Once the payroll taxes (Social Security and Medicare) are withheld, along with the income taxes pursuant to Publication 15, the taxes have to be remitted to the U.S. Treasury. If you accumulate less than \$2500 in total tax liability per quarter, the taxes can be paid electronically when you timely file an IRS Form 941 each quarter. However, if you accumulate more tax liability than \$2500 each quarter, you should use the Electronic Federal Tax Payment System (EFTPS) to make either monthly or semiweekly deposits. To learn more about EFTPS, visit the following site: <https://www.eftps.gov/eftps/>.

Churches can face substantial penalties and fines if payroll and income taxes are 1) not withheld and 2) not remitted timely. The IRS can actually place tax liens on church property to assure payment of delinquent payroll taxes.

## Filing Form 941

IRS Form 941 is a quarterly report that lists the number of employees the church has as well as accounts for Social Security taxes paid, Medicare taxes paid, and federal income taxes withheld. The Form 941 can be accessed at the IRS's website by going to <http://www.irs.gov/pub/irs-pdf/f941.pdf>. Instructions for the Form 941 can also be found on the IRS web site at [www.irs.gov](http://www.irs.gov). It is imperative that all tax deposits made during the quarter reconcile with the quarterly Form 941.

It should be noted that Form 941 contains a box on line 4 that should be checked if some wages reported on the form are not subject to Social Security and Medicare tax. This box should be checked if the Form 941 contains wage information on a minister who cannot have Social Security and Medicare taxes withheld in this manner, but who has voluntarily agreed for the church to do income tax withholdings on his earnings.

## Independent Contractors vs. Employees

Too often, churches try to get creative and contend that instead of employees, the people working for them are independent contractors. While there is a detailed process to go through to make the determination, generally the answer is going to revolve around control. If the church controls when and how the person does their job, more than likely they are going to be considered as an employee and not as an independent contractor.

Since an employer does not have to withhold taxes on an independent contractor, churches often see classifying employees as such as an easy way out from having to pay all the taxes that comes with having an employee. However, if it is later determined that the person was actually an employee rather than an independent contractor, the Internal Revenue Service can seek to

collect back taxes, as well as access penalties and fines. Oftentimes these levies can be substantial.

### **Completing Forms W-2 and Filing Form W-3**

Annually, by no later than the last day of January, the church must provide each employee, including the pastor, with a Form W-2. While an example of the Form W-2 can be seen on the IRS's web site, an original form must be obtained from an office supply store, an accounting firm, or directly from the IRS. In addition, Form W-2s can now be completed, printed, and filed online. To learn more, you may visit <http://www.ssa.gov/employer/>.

Again, the Form W-2s must reconcile with the previously filed Form 941s for the four quarters of the year, as well as with the Form W-3. The Form W-3 is simply a transmittal form for all the Form W-2s from an employer. Beginning in 2017, the Form W-3 must be filed by no later than January 31 each year, whether filed by paper or electronically.

### **Completing Forms 1099 and Filing Form 1096**

If a church has independent contractors, they must be given a Form 1099 before the last day of January reflecting all payments made to that individual during the previous year. The Form 1099 should be used to reflect payments to independent contractors, evangelist, traveling singing groups, etc. If the amount given to the person is less than \$600, no Form 1099 is required. However, if multiple checks are given to the person that are individually less than \$600 but aggregate to more than \$600, a Form 1099 must be issued. Under the polity of the Church of God, Cleveland, TN, every pastor should receive a Form W-2, rather than a Form 1099.

*(NOTE: Currently, the Form 1099 is only required to be provided to non-corporate entities. For example, if an incorporated yard service company provides lawn maintenance for the church and is paid more than \$600, no Form 1099 is required since the entity is incorporated. Legislative changes contemplated in the healthcare reform bill seek to change this provision, ultimately requiring that a Form 1099 be provided to all entities, regardless of their corporate status. This matter is still unresolved as of the date of this manual being updated.)*

Just as the W-3 form transmits all the Form W-2s, the Form 1096 serves as the transmittal form for all informational returns such as the Form 1099. Again, just like the W-3 form, beginning in 2017 the Form 1096 must be filed by no later than January 31 each year, whether filed by paper or electronically.

## Form 940 Taxes

Most employers are required to pay taxes under the Federal Unemployment Tax Act (FUTA), often called 940 taxes because the Form 940 is used to transmit the taxes. Churches and religious entities are exempt from paying Federal 940 taxes. However, because of the exemption, it also means that church employees are **not** entitled to federal unemployment benefits.

In a limited number of states that administer their own state unemployment insurance program, churches are not exempted out from those state-run programs. Therefore, church officials should check with their state unemployment agency to determine if they have liability under the state unemployment program.

## Form W-9

To complete all the tax information forms required (and as discussed above), certain identifying information is needed on each person. The church needs to know the person's legal name, their address, and their Social Security number. For employees, this information can be gathered when the employee completes the Form W-4 showing their tax deductions and dependents. However, for independent contractor, evangelists, singing groups, etc., that vital information may not be so readily available.

The Internal Revenue Service makes Form W-9 available for this purpose. Form W-9 can be accessed at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. No check should ever be written to any independent contractor, evangelist, singing group, etc. until they have completed a Form W-9. If you do not have a completed W-9, the IRS claims that you must do "back-up withholding" at a rate of 28% on the payment.

## Form I-9 (Employment Eligibility Verification)

Different from the W-9, the [Form I-9](#) not only collects vital information, it also serves as a certification that the person is a U.S. citizen. An updated [Form I-9](#) should be kept on file of all church employees (including pastors), in addition to a completed Form W-4. To learn more about why a Form I-9 is required on each employee, visit <http://www.uscis.gov/i-9>.

In recent months, the Internal Revenue Service, in conjunction with the U.S. Citizenship and Immigration Services, has instituted raids on some employers, checking the legality of certain documentation kept on file by the employer. Having a properly completed Form I-9 on all employees eliminates the fear of such enforcement actions.

## **Unrelated Business Income Taxes (UBIT)**

Churches should always be mindful that their federal income tax exemption, granted under Section 501(c)(3), is applicable only to income received in the normal course of carrying out their duties as a religious entity. When the church ventures into the business of selling goods and services, tax liability may apply. This tax is called Unrelated Business Income Taxes, or UBIT.

Unrelated Business Income Taxes is a complicated issue and not subject to discussion in this limited forum. However, the Internal Revenue Service makes several well-developed resources available to guide churches and other non-profits through the landmines surrounding the UBIT. To learn more about the guidance on UBIT, visit the IRS web site at <https://www.irs.gov/charities-non-profits/unrelated-business-income-tax>.

Simply stated, anytime the church ventures away from its' sole function of providing religious activities, UBIT becomes a possibility. Activities such as selling candy, running a thrift store, renting out a parsonage or church facilities, etc. all could possibly create UBIT liability. Anytime such activities are contemplated, church officials should seek advice and counsel from a knowledgeable certified public accountant or lawyer before proceeding. While going ahead with the activity and paying the UBIT may be feasible, the church officials should be aware of the tax liability before embarking on an effort that creates unrelated business income tax liability.

*(NOTE: A church must make quarterly estimated tax payments if it expects its unrelated business income tax liability for the year to be \$500 or more. The church should use IRS Form 990-W to figure the estimated taxes. Quarterly estimated tax payments of one-fourth of the total tax liability are due by April 15, June 15, September 15, and December 15, for churches on a calendar year basis. The church can deposit quarterly tax payments electronically using the EFTPS system.)*

## **Workers' Compensation**

While workers' compensation is not a tax issue, it is an issue that comes up in conjunction with payroll issues because it involves the human resources department of the church. "Workers' compensation" is basically insurance that covers employees if they are injured on the job. State laws control whether workers' compensation coverage is required or not. Almost universally states exclude churches from workers' compensation coverage if the church has a minister as its sole employee. However, if the church has other employees, including volunteers that regularly perform certain duties, church officials should contact the church's insurance carrier to determine if the church should have workers' compensation coverage.



Even if your state does not require workers' compensation coverage, it may be an inexpensive way to provide added peace of mind that the church's employees and volunteers would be taken care of if something happened to them during the course of carrying out their duties.

## **“Wage and Hour” Requirements**

Erroneously again, some church officials believe that the Fair Labor Standards Act and its' wage and hour requirements do not apply to churches. All provisions regarding minimum wages, overtime, child labor, etc., however, do apply to churches. While this issue is beyond the scope of this manual, church officials should be aware of the application of the wage and hour rules. To learn more about these requirements, you may visit the U.S. Department of Labor web site at <http://www.dol.gov/whd/>.

Although the wage and hour requirements are not a tax specifically, they do impact the pay and hours that an employee can work. Further, there are substantial fines and penalties if an employer, including a church, violates the provisions of the wage and hour requirements.

## **Charitable Receipts**

One of the benefits of being a non-profit organization is that charitable contributions made to the local church entitles the donor to a tax deduction. However, in order for the contributions to be included in the donor's deductions, the church must satisfy certain requirements of law and regulations of the Internal Revenue Service.

The simple rule is that if a donor claims a tax deduction on any single gift over \$250, the church must provide written acknowledgment of the gift to the donor. For gifts less than \$250, for the donor to be able to claim such as a charitable contribution, he or she must have either a cancelled check showing the donation or a written receipt from the church denoting the gift. Special rules apply to non-cash gifts, as well as gifts involving motorized vehicles.

Again, this manual format does not allow for a detailed discussion of the charitable contribution rules. To learn more about this issue, as well as to see examples of charitable contribution receipts, church officials should review the [Church Treasurer's Manual](#) available without cost at [www.benefitsboard.com](http://www.benefitsboard.com).

## Summary

In the hour or so that it takes to review this manual, there is no way that every issue involving the church and its responsibilities for taxes can be adequately covered. Instead, this manual is intended to provide an overview of those issues and hopefully make the local church officials aware that the church does have tax responsibilities – and that there can be severe penalties and fines if those responsibilities are not followed.

The singular best advice that can be provided a church regarding its responsibilities for taxes is to develop a close relationship with a certified public accountant. While paying the CPA to keep the books for the church is probably not required, the church officials, particularly the pastor and the church treasurer, should have someone that they can go to for advice on some of these complicated and arcane tax issues. Building a relationship with a CPA will be invaluable in keeping the church in compliance with the tax laws.

Please note that this document is accurate as of December 31, 2019. Tax laws change regularly and provision discussed herein may change based upon legislation passed by Congress or regulatory action taken by governmental entities.

*Neither the Board of Directors nor the staff of the Church of God Benefits Board, Inc. is engaged in rendering financial advice, legal advice, tax advice, or other financial planning services. If such advice is desired or required, the services of a competent professional should be sought.*

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