

Facts That All Ministers and Churches Should Know

(Based on information as of 2010)

I. Ministers

Ministerial Integrity is something that all ministers should have in order to represent the purpose of our high calling to carry the gospel message. We should also exercise ethics concerning financial and legal matters.

Anyone in ministry who receives salaries, honorariums or love offerings must carry credentials with some credentialing organization that is recognized by the IRS with a 501(c) (3) tax exempt status.

A. Meeting IRS Requirements: When you receive compensation as a minister you are entitled to certain deductions presently allowed by the IRS when filing your tax return.

Your Deductions Allowed:

1. **Mileage** driven for ministry related activities **OR** depreciation and actual expenses on your vehicle for percentage of use for ministry. (*You cannot deduct both.*)
2. **Housing** – Up to 1/4 of the total of your housing expenditures for an office in your home. You must be prepared to show documentation each filing period. (*This is for those not being paid a housing allowance*)
3. **Other ministry related expenses** such as books, tapes, CD's, office supplies, equipment, dry cleaning, entertainment, hotel expense, plane fares, toll charges, meals, etc.
4. **You should save** all receipts and financial information for 3 - 5 years in case of an audit.

B. Social Security.

Exempting from Social Security withholding. – From first year a licensed or ordained minister reports earned income he/she has only **TWO YEARS** to file a **4361** form to exempt out of Social Security on the basis of being opposed to it for religious reasons or simply want to invest in retirement funds of your own. This has no effect on your prior benefits. If you have paid in 40 quarters or 10 years you are still qualified for Social Security benefits when you turn 62 ½. During the time period you have exempted out until age 62 ½, you won't pay Social Security tax, but you also would not be qualified for medical Social Security disability benefits or Medicare before 62 ½. If you intend to exempt from Social Security, you must file the **4361** form before the due date of the second year. It is not advisable for a young person to exempt because if they should ever become disabled there would be no S.S. benefits available.

C. Conducting Weddings.

In some states your License or Ordination credentials must be recorded in a county court house of the state that the wedding is to be performed in. Your current credential card should be enough, but your certificate (or copy) may also be needed. Check with your state on the requirements.

In Oklahoma, your License or Ordination credentials must be recorded at a county court clerk's office one time only and is effective only as long as you are licensed or ordained. There is no waiting period as long as it is recorded before or on the day of the wedding. The Book and page number must be filled out on the Marriage License along with your signature. It is recommended to memorize or write this down in a secure place. (*An ideal place would be in the back of your wedding manual*)

In Oklahoma, the marriage license is good for 10 days and is \$50.00 unless a requirement of 4 hours pre-marital counseling by a pastor or counselor is met. Then it is reduced to \$5.00. The minister should have the form in his possession (copies, etc.). Check with your nearest county courthouse. The couple will then be

required to meet all the other requirements by the county court clerk's office.

If a minister conducts a wedding in another state other than his own, he may be required to register his/her credentials at a county courthouse in that state. Check with the state for specifications. Each of them will have different rules concerning weddings. Some may have a waiting period after the credentials are recorded to be legal.

II. Churches.

Many good churches have begun in home bible study or prayer groups to grow into a flourishing congregation with a permanent location. Under no circumstances does the IRS recognize a church in a house if it is a residence. Newly formed churches should obtain a commercial property as soon as possible. They must receive their own 501(c)(3) or be included in the group ruling of a parent organization that has a 501(c)(3) in order to be a tax deductible entity receiving contributions. Churches are not required to file an IRS return unless they have their own 501(c)(3) or if they have unrelated business taxable income (form 990).

Proper Organizational Structure: It is very important that all churches are organized properly from the beginning. The process includes obtaining an employers identification number (EIN) from the IRS, Incorporating in their state, getting a tax exempt number for purchase of goods and supplies, drafting and adopting a secure set of bylaws, and having a congregational business meeting establishing the offices of pastor and governing body and possibly a membership roster. Accurate minutes of all business meetings of the governing board and/or congregation should be kept in a record book to secure the foundation for a harmonious future.

Church Finances: An accurate and well balanced bookkeeping system should be in place in all churches. All offerings and monies should be counted and verified by the witness system (2 or more present).

1099 forms must be given to all individual persons who received more than \$600.00 for any given year from the church funds (excluding checks made out in the name of a ministry). A copy must also be sent to the IRS. (In Oklahoma, no 1099's should be sent to the State unless state taxes were withheld).

Pastor's Compensation: Employee or Self Employed? : When a pastor is paid on a percentage basis he can be classified as self-employed "independent contractor" (another term is "statutory employee"). The church does not have to file withholding taxes on his compensation and pay matching funds to the IRS. If he is paid a fixed salary (per week or month) he will be classified as an employee and may be subject to withholding taxes. **Note:** When a church begins to file tax returns on employees they will be expected to continue each year.

Pastor's Housing Allowance: A housing allowance can be paid to pastors, church staff or presiding officers of not-for-profit organizations, Housing is not taxable. It is not considered income.

Housing Allowance consists of money that is actually spent on maintaining a house. (utilities, insurance, taxes, house payment or rent, furnishings, cleaning supplies, repairs and maintenance, etc). Any excess amount over that would be considered as income. The IRS requires that the housing allowance total should be established in the minutes of an annual meeting of the church board and readjusted each year according to the estimated expenses. The housing allowance is not taxable (income), but it is subject to Social Security tax. The pastors housing allowance should not exceed 50% of his/her salary.

Churches cannot take cash from the offering to give to someone as a love offering or any other reason. All funds should be deposited and issued by checks and recorded as a transaction in the records of the church.

Churches cannot give receipts for donations of goods or services in an amount that exceeds fair market value.

III. Not-for -Profit Ministries

Like churches, religious not-for-profit organizations (ministries) can be included under the covering of a parent organization (such as IA) with the same privileges as the parent organization. All contributions to their organization will be tax deductible.

The form 990 is required only for the years that a not-for-profit organization has unrelated business taxable income of any amount or has gross receipts of \$25,000.00 or more.

In some states not-for-profit organizations may not be able to obtain a state sales tax exemption number. This is used for purchasing goods and supplies, hotel tax, etc. In Oklahoma at the present time, not-for-profit organizations are not usually exempt. You should check with the Tax Commission of your state to see if you qualify.

If a not-for-profit ministry is changed to a church, they can use the same EIN number (if they have never filed a 990 form with the IRS). After office qualifications are met, IA will merely drop them from the not-for-profit listing and add them to the church listing that is reported to the IRS annually. If they have ever filed a 990 form, then it is advisable to dissolve the not-for-profit ministry including the EIN number and start over to organize it as a church.

If a not-for-profit organization moves to another state the only change would be that they must register as a "foreign corporation" to the Secretary of State of the state they are moving to. Their corporation remains filed in the state of their origin until it is dissolved. A copy of the form should be sent to the IA office.

For Churches and Not-for-Profit Ministries

If a name change becomes necessary for the not-for-profit ministry or church, it should be reported to the Corporation Commission of your state and the proper form should be filed. Then IA would require a copy to be placed in the files.

If a Not-for-Profit Ministry or Church chooses to obtain their own 501c3 they will file a 1023 form which is a very extensive multi-page form.

Independent Assemblies as a group (*members, member churches and other ministries*) are covered under **Group Ruling No. 1963**. You may use this **Group Ruling No. 1963** whenever necessary for identifying your church or ministry under the covering of the 501 (c) 3 of Independent Assemblies. If you are ever required to file with the IRS on matters of payroll deductions or other tax matters, you must use your own Employer Identification Number (EIN). If the (EIN) of the Independent Assemblies Corporation were used it would be a serious procedural error and may result in payroll tax penalties, fines, and possibly litigation costs for your church or ministry and for the Independent Assemblies. **Always Use Your Own EIN number.**

This information was compiled from our legal representation and is presented to the members of Independent Assemblies in an effort to keep you informed of the legal responsibilities of your ministry. This is not an exhaustive list, but a few basics that we should all know. These are facts as we presently understand them. They will be subject to change as the laws change. Our desire is that you present the gospel with integrity and that your ministry is done decently and in order.