

BASIC INFORMATION for MINISTERS, CHURCHES and Not-For-Profit Ministries

(Revised January 2022)

This information is for your own personal benefit. Please read it and file it for future use. It will answer many questions that may arise throughout the year. It is not intended as a substitute for legal, accounting or professional advice. If legal, tax or other expert assistance is required, the services of a competent professional should be sought.

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 should carry credentials with some credentialing organization that is recognized by the IRS with a 501(c)3 tax exempt status.

Ministerial Compensation and Taxation: Ministerial compensation is truly complicated and one of the more complex areas of taxation. This did not change with the passage of the Tax Cuts and Jobs Act of 2017, in fact it made tax planning for ministerial compensation even more important (With the rise in the standard deductions it means that many who have itemized deductions in the past will not be able to any longer and the elimination of deductions for dependents as well as the taxpayers no longer able to deduct unreimbursed employee expenses as miscellaneous itemized deductions it is imperative to do tax planning to maximize the effectiveness of your compensation package.).

The classification of ministers as employees or as independent contractors is the beginning point of the planning. IRS guidelines tell agents auditing a minister's tax return that whether the minister is an employee or self-employed for federal income tax purposes is the first issue to be resolved. Most ministers have been classified as employees in the tests that are used by the IRS and federal courts. Most ministers have a "dual tax status". This means that ministers are employees for federal tax purposes and are self-employed for Social Security purposes. The minister of the local church is reported as an employee for federal income tax purposes in almost **all instances**. However, for all amounts received for speaking at outside engagements, performing weddings and funerals, etc. the minister will be taxed as self-employed. **Both the minister and the employing non-profit can suffer significant penalties and interest for utilizing the wrong classification for the minister's compensation.**

The two most important items of compensation other than the minister's salary is the housing allowance and the reimbursement of expenses under an "accountable" expense reimbursement plan.

Housing Allowance: A licensed, commissioned or ordained minister who is an employee may be able to exclude from gross income. The exclusion is limited to the lesser of 1) the housing allowance payments, 2) actual expenses of providing a parsonage (including furnishings, utilities, appurtenances, repairs and maintenance, etc., and 3) the fair market rental value of the home plus utilities. There is no limit on the amount of a minister's compensation that can be designated by a church as a housing allowance (assuming that the amount is reasonable and that the minister can demonstrate that there are other sources of revenue which can be utilized to provide for the minister's other living expenses). The IRS specifies the board of the non-profit who employs the minister is the only one with the authority to designate a part or all of a minister's compensation package as a housing allowance and it must be designated prior to the payment of any of the allowance. The minister himself cannot designate how much of his compensation is housing allowance although he can request the board to approve a specific amount to be designated as such. It is not the board's position to tell the minister how much he can claim as a parsonage allowance but rather to approve an amount based on an estimate of the housing expenses submitted by the minister.

Although a minister's housing allowance is exempt from income taxation it is not exempt from self-employment (SECA) taxes. If you live in a church owned parsonage you must claim the fair market rental value of the parsonage as income subject to self-employment taxes.

Reimbursed Ministerial Expenses: Churches save the minister taxes when they reimburse them for business (ministry-related) expenses under an accountable reimbursement expense plan. Churches penalize ministers financially when they do not reimburse them for ministry-related expenses or when they make reimbursements under non-accountable plans. Reimbursements and the utilization of allowances (such as car allowances or phone allowances) are includible at taxable income in the minister's W-2. Reimbursement plans should follow IRS requirements: **1)** Reimbursements are made only with adequate substantiation. Written evidence is required for all expenses, receipts should evidence all expenses being reimbursed, **2)** the evidence must substantiate the amount, date, place and business nature of each expense. A church should require the same degree of substantiation as would be required for a deduction on the minister's income tax return, and **3)** expenses must be substantiated and excess reimbursements returned to the church within a "reasonable period of time". **An important note to remember is that equipment (such as a computer) purchased under an accountable reimbursement is the property of the church as they were the purchasing agent.**

Social Security

Exempting from Self-Employment Taxes: A minister can request an exemption from self-employment tax for your ministerial earnings, if you are opposed to certain public insurance for religious or conscientious reasons. You cannot exempt from self-employment taxes for purely economic reasons. The exemption is claimed by filing Form 4361, *Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners* with the IRS. You must file Form 4361 by the due date of your income tax return (including extensions) for the second tax year in which you have net earnings from self-employment of at least \$ 400. The rule applies if any part of your net earnings from each of the two years came from the performance of ministerial services. The two years do not have to be consecutive. The exemption is granted if the IRS approves your application. Once granted, the exemption is irrevocable. This filing has no effect on your prior benefits or benefits earned outside of the ministry. If you have paid in 40 quarters or 10 years you are still qualified for Social Security benefits when you become eligible. It goes without saying that if you have not paid in the required time you will not be eligible for Social Security, medical Social Security disability benefits or Medicare benefits. If you work outside of the ministry this does not exempt you from paying in to social security on non-ministerial wages. **Because of the serious implications of this decision, it is a decision that should not be entered into lightly.**

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 a copy thereof) 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 unrelated business taxable income. If they do they are required to file Form 990 with the IRS. Once they have become a filing entity they will always be a filing entity, so it is important to remember to segregate any unrelated business taxable situation from any church activity.

Proper Organizational Structure: It is very important that all churches are organized properly from the beginning. The process includes obtaining an employer's 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 body 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 (It should be noted that this is more than a check register and a set of bank statements.). All offerings and monies should be counted and verified by the witness system (2 or more present).

W-2s should be given to all employees of the church. Form 1099 must be given to all individual persons who provide services and who receive 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. Your state may also require that copies be filed with them.

Churches cannot take cash from the offering to give to someone as a love offering or for 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 the IA) with the same privileges as the parent organization. All contributions to their organization will be tax deductible.

Not-for-Profit organizations are not required to file a IRS return unless they have unrelated business taxable income of any amount or have gross annual receipts of \$ 50,000.00 or more. If your annual gross receipts are less than \$ 50,000.00 you are required to file a Form 990-N annually declaring that your receipts are less than \$ 50,000.00 (known as a postcard filing). **Failure to file the Form 990-N for a period of 3 consecutive years may be grounds for the IRS to revoke your exempt status.** IF your gross annual receipts are greater than \$ 50,000.00 or you have unrelated business taxable income you will need to file Form 990. **Form 990-N is due every year by the 15th day of the 5th month after the close of an organization's tax year, and it must be submitted electronically. Form 990-N is a simple E-Card form and is due every year by the 15th day of the 5th month after the close of an organization's tax year, and it must be submitted electronically. Go to IRS.gov and search for 990-N, follow instructions.**

In some states not-for-profit organizations may not be able to obtain a sales tax exemption number. This is used for purchasing goods and supplies, hotel use 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 Form 990 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 Form 990, 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.

(Additional) ---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 501(c)3 they will be required to file a 1023 form with the IRS which is a very extensive multi-page form and pay an application fee.

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 ever used for your corporation business transactions, it would be a serious procedural error and may result in payroll tax penalties, fines, and possible litigation costs for your church or ministry and/or for the Independent Assemblies. --- **ALWAYS USE YOUR OWN EIN NUMBER.**

THE USE OF THE 501(C)3 OF THE INDEPENDENT ASSEMBLIES

In the event that a copy of the 501(c)3 of Independent Assemblies (with IA’s EIN number) is required for churches or not-for-profit ministries to conduct business with government agencies or other institutions, copies will not be sent to members, member churches or not-for-profit ministries for reasons of the possibility of errors in using the IA’s EIN number. (Refer to preceding paragraph on this page.) However, proof will be provided directly to these agencies in behalf of the church or not-for-profit organization by simply contacting the office of the IA Secretary/Treasurer.

LEGAL DISCLAIMER STATEMENT Concerning Churches and Not-for-Profit Ministries

You are an autonomous organization. Independent Assemblies is an umbrella organization of affiliated churches and not-for-profit ministries for the sole purpose of obtaining 501(c)3 recognition from the IRS under **Group Ruling Number 1963**. Independent Assemblies in no way endorses or is responsible for your activities.

This information has been compiled 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 we should all know. These are facts as we presently understand them. They will be subject to change as laws change. This is not prepared or presented as legal or tax advice but merely as informational. Our desire is that you present the gospel with integrity and that your ministry is done decently and in order without reproach.

If legal, tax or other expert assistance is required, the services of a competent professional should be sought.