

LEGAL AND FINANCIAL RECOMMENDATIONS FOR CHURCHES

For both new and existing churches, the following steps are highly recommended.

TAX ISSUES

- ❖ Apply for an Employer ID Number **even if you have no employees.**
 - Since the Patriot Act was enacted churches cannot open bank or investment accounts without having an EIN. Apply online at www.IRS.gov or call (800)829-4933.
 - Once you have the EIN number, contact ACGC to request that we add you under our 501(c)(3) umbrella. We will then provide you with a form letter you can show your bank or anyone who requests it. Though churches are exempt from income tax by definition, it helps to have this documentation in your files for other tax and banking needs. Churches can choose to apply for 501(c)(3) exemption on their own by filing IRS form 1023. *Do not use form 1023EZ.*
- ❖ Check your state laws regarding Sales & Use tax exemption.
 - Most states will allow you to apply for an exemption number so you do not have to pay sales tax on purchases for church use.
 - Some states, like NC, require you to pay the sales tax and then you can request reimbursement periodically. If that is the case, be sure to keep sales receipts and accurate records of tax paid broken down by state, county, food. Tax included on receipts reimbursed to an individual cannot be claimed for refund.
- ❖ New Hires:
 - For every employee hired you must have on file: IRS Form W-4, State Withholding Allowance Certificate (such as NC-4), and Federal I-9.
 - In addition you must report all newly hired (or rehired) employees within 20 days to your state's New Hire Reporting agency. Google your state or call your Department of Revenue for information.
 - Churches are required to post federal and state labor law posters like any other employer.
- ❖ IRS Form W-2 is required for any person for whom you are withholding any payroll taxes.
 - Churches may not have to withhold income taxes for ministers; however, it is usually to the minister's benefit to have the church voluntarily withhold income taxes and issue a W-2 form. Churches should **not** withhold FICA/Medicare taxes from ministerial staff. Non-minister employees are subject to income tax withholding and FICA/Medicare withholding.
 - Then you must also file IRS form 941 each quarter and deposit payroll taxes as required (frequency depends on the total tax remitted-- probably quarterly for most churches).
 - Also check with your state regarding state tax deposit requirements.
 - W2s are due to the employee by January 31, the W3 is due to the IRS by January 31, and state forms are usually due to the states by January 31.
- ❖ Health insurance laws are changing frequently. Please consult a health insurance professional for information on how and when premiums may be paid by a church.
- ❖ Any individual to whom you pay at least \$600 for contracted services during the calendar year must be provided a 1099-NEC form at the end of the year. This includes visiting ministers, musicians, lawn care, and similar positions. (Form 1099-MISC may apply to other types of payments made, such rent paid for a member from benevolent funds.) Individuals should note that all such income is taxable even if it does not exceed \$600 and even if they are not given a 1099 form.

- If the person is an employee of a business, you should make checks payable to the business rather than the individual—a 1099-NEC form may not be required in that case. The 1099-NEC is due to the individual by January 31, and the summary 1096 form is due to the IRS by January 31.
- Love gifts (gift cards, monetary or material) are *nearly always* taxable income and should be reported on the W2 or 1099-NEC form for that individual.
- ❖ Ministers can claim housing expenses as non-taxable income provided the church designates them as such *in writing* at the beginning of each year. Housing allowances **cannot** be designated retroactively. For example, Rev. Smith is paid a total of \$20,000 per year, but he pays rent and utilities totaling \$6,000 each year. In this case the church would designate \$6,000 as housing at the beginning of the year, and then on his W2 or 1099 report \$14,000 taxable income and \$6,000 non-taxable housing. Housing expenses include rent or mortgage payments, utilities, maintenance and repairs, taxes, and furnishings. However, please note that on their tax return they can only claim the *smallest* of: a) designated housing allowance, b) actual housing expenses, or c) fair rental value of your house.
- ❖ Donation receipts must be provided at least annually to every person who contributes at least \$250 in a year. (Smaller gifts can also be acknowledged.)
 - The receipt should include the church name, donor name, total cash/checks donated, date received, the date the receipt was issued, and a statement that no goods or services were received in exchange for the contribution. The receipt can also include the EIN of the church, though this is not required. Receipts should be issued by January 31 each year.
 - If property or goods are donated, the receipt should include a brief description of the items, but should not assign a value to the items. It is up to the donor to document the fair value on their tax return.
 - Do not issue receipts for which the person received any goods or services in return (eg. payment for a meal even if it is called a “fundraiser”).
 - Do not issue receipts for raffle tickets purchased. Raffle winners may be subject to taxes and churches may be required to withhold taxes depending on the nature of the prize.
 - Receipts **cannot** be issued for donated services (such as mowing), except for any documented out-of-pocket expenses for which they are not requesting reimbursement.
 - Contributions made for the benefit of a named individual are **not tax-deductible** and should not be included on the donation receipt (eg. a birthday gift for the pastor or a specific missionary.)

FINANCIAL RECORDS

- ❖ Two people should always be involved in counting and recording offerings. One person alone may not be able to resist the temptation to help themselves to the funds. The pastor should **not** be one of the counters, nor should the two be a married couple. The pastor also should not be able to sign on any bank accounts.
- ❖ At the very least, the church should maintain a checkbook that is balanced monthly with the bank statements. It is highly recommended that the church provide software such as Quicken or QuickBooks. These can greatly aid in reconciling the bank statement, tracking expenses, and calculating payroll. Many banks now provide online statements that can be exported to various programs.
- ❖ If you use online bill payment, be sure to include detailed information in the memo line for the purpose of each payment (account number, “United Ministries”, etc.).
- ❖ If you allow one or more staff members to use credit cards in the church's name, they must be required to turn in receipts for each transaction. You can create a simple reporting form including

transaction date, business name, amount, and description of the purpose for each charge (eg. Sunday school supplies, meal with deacons).

- ❖ Ideally, financial reports should be provided monthly to the board and church members. This should include income received for each fund (general fund, deacons, etc.); and expenses by category (payroll, supplies, utilities, etc.). Also include beginning and ending balances for any bank accounts and special funds. The more information you can provide to the church board the better. The board is accountable for the use of church funds.
- ❖ Most financial records should be kept on file 7 years. Permanent records should include: end of year financial statements or audits, tax and information returns (both state and federal), articles of incorporation, bylaws and constitution, board minutes, litigation, IRS rulings. Permanent records ought to be kept in a fireproof safe or safety deposit box.

PROPERTY AND INCORPORATION

- ❖ It is strongly recommended that each church pursue incorporation within their state. This helps to protect the church, board, and members in the case of a lawsuit. Usually this is fairly simple once you have your EIN. You may be required to file an annual report of officers. Be sure to file updates if you change the designated agent (contact person).
- ❖ When buying property or receiving donated property, we recommend that you include **in the deed** a reversion clause so that if the church ceases to exist or leaves the denomination, the property reverts to the conference or region or to ACGC. If this clause is only in the church constitution & bylaws, a future board may get the congregation to remove the clause before closing or leaving, thus defeating the purpose of having a clause to begin with.

DENOMINATIONAL REPORTING

- ❖ Churches and ministers are sent annual report forms **every** year. It is vital that these are completed and returned to the conference, region, and ACGC. These reports can be filed online from the ACGC website.
 - This helps us all stay current on contact information for church officers and ministers.
 - The church statistics are necessary to calculate the number of delegates each church can send to conference, regional, and general conference meetings, as well as viewing statistical trends over time.
- ❖ We request that all United Ministries and Penny Crusade funds be sent directly to ACGC, not to any intermediary conference or region. This saves time and helps ensure correct reporting for each church's giving. All checks should be made out to ACGC with any designations indicated on the memo line or accompanying letter.

OTHER INFORMATION

- ❖ If you plan to photocopy music or print or project song words, you need to have a CCLI (or equivalent) license number. Without a license you can only print public domain music. Note that most choir arrangements cannot be copied **even if** you have a CCLI license, and even some songs published in hymnals are not covered by CCLI. Apply online at www.CCLI.com. CCLI also handles licensing for videos for public viewing.
- ❖ If you record or stream audio or video of your services online, you must also have a CCLI streaming license in order to include copyrighted music. If you do not renew the streaming license, you must remove all audio and video files from the internet.

- ❖ If you play any types of copyrighted videos (including YouTube) or movies in church services, classes, or special events, you must have a current CVLI license. One exception to this would be videos from RightNow Media if you have a current RNM subscription for your church.
- ❖ Consider adopting policies related to benevolent funds, facilities use, child safety, social media, vehicle use/transportation, volunteer screening, etc. Many insurance companies maintain a library of sample policies, and some can also be found on ECFA.church.

ADDITIONAL RESOURCES

- ❖ Zondervan Church and Nonprofit Tax & Financial Guide (revised each year)
- ❖ Zondervan Minister's Tax & Financial Guide (revised each year)
- ❖ www.churchlawandtax.com and www.churchsafety.com- created by Christianity Today. Sign up for the weekly email updates.
- ❖ www.ECFA.org - Evangelical Council for Financial Accountability, see especially the "Standards and Best Practices." They also publish annual Minister's Tax & Financial Guide and Church & Nonprofit Financial Guide that are free for download if you create an account.
<https://www.ecfa.church/TaxBooks/>