

**GUIDELINES TO OBLIGATIONS OF  
BRANCH CHURCHES AND SOCIETIES TO WITHHOLD  
FEDERAL INCOME AND SOCIAL SECURITY TAXES  
AND TO REPORT COMPENSATION**

**EMPLOYEE OR INDEPENDENT CONTRACTOR**

Federal income tax and Social Security tax are to be withheld only from the compensation of employees, not independent contractors. Consequently, the first step is to determine whether an employer-employee relationship or an employer-independent contractor relationship exists with each worker. The primary tests for making this determination are whether or not the branch church or society has the right to control and direct the worker as to what is to be accomplished and how it is to be accomplished (employees are subject to this type of control; independent contractors are not), and whether or not the worker makes his or her services available to the general public (as independent contractors typically do, but employees do not). These are just two of the several factors to be applied.

In this guideline, the status of different categories of church workers will be addressed, and you will find that we have clearly identified certain workers as employees. Others, however, will have to be classified according to your own particular circumstances. In order to make an informed decision, we recommend that you refer to the several factors which the IRS has described in its **Publication 15-A** titled "Employer's Supplemental Tax Guide." This publication, which can be ordered directly from the IRS (see last page of this Guideline) or accessed on-line at [www.irs.gov](http://www.irs.gov), will help you determine whether a worker should be classified as an employee of your church or as an independent contractor, by offering examples of how to apply the several factors discussed in the publication.

Although it is helpful to have a written agreement between the church and any independent contractor it may employ, the existence of a written agreement, by itself, will not guarantee that the IRS will view the worker as an independent contractor. In the event of an audit, the facts of the situation will govern. Consequently, it is important to understand, and when possible to document, the reasons for classifying the individual as an independent contractor. Periodic review of the factors as they apply to your workers will help to ensure proper classification. Although it is very unusual to find a case where an employee should be reclassified as an independent contractor, it is fairly common to discover that an independent contractor has, over time, actually become the church's employee. If your professional tax advisor recommends changing the status of a worker from employee to independent contractor, be sure to document carefully the reasons for making the change. The current attitude of the IRS in ambiguous cases is to lean towards the side of determining a worker to be an employee rather than an independent contractor.

## **REPORTING AND WITHHOLDING RULES**

### **A. Employee**

If the worker is found to be an employee, the following withholding and reporting rules must be observed:

1. **Federal Income Tax Withholding** — Withholding of federal income taxes must be made from payments to employees who have sufficiently large earnings. You should refer to IRS **Publication 15** titled “Circular E, Employer's Tax Guide” for applicable withholding tables. Please note that even if no withholding is required, employees must report this income on their own income tax returns.
2. **Social Security Tax Withholding (FICA)** — Churches and societies are covered by Social Security and, therefore, must withhold and pay Social Security taxes (including Medicare) from the earnings of an employee (except Readers). In addition, the church or society must contribute an amount equal to the amount contributed by the employee. IRS **Publication 15-A** provides applicable withholding tables.
3. **Required Forms for Reporting** — On or before January 31 of each year, churches and societies must furnish a Form W-2 to each employee. The church also must send, on or before February 28 of each year, this form to the IRS. In addition, churches and societies must file quarterly with the IRS a Form 941 showing the amount of Social Security tax paid during the quarter and any income tax withheld during the quarter. Reader earnings should be included in total reportable wages, but excluded from taxable Social Security wages and taxable Medicare wages. You should check the box at the end of line 4 if wages are exclusively minister earnings not subject to withholding. If wages include both Readers and other employee wages, do not check this box, but write the following between lines 3 and 4: "Note: Includes minister's wages not subject to withholding." General procedural information can be obtained from **IRS Publication 15** referred to above and from the instructions to Forms W-2 and 941.

### **B. Independent Contractor**

If the worker is found to be an independent contractor (also called a “self-employed person”), no federal income tax is withheld from his or her compensation. Because an independent contractor is required to pay self-employment tax (the equivalent of Social Security tax) on his or her self-employed income, there is no withholding of Social Security taxes from compensation paid to such persons. However, the following reporting rules must be observed:

**Required Forms for Reporting** - If an unincorporated independent contractor is paid \$600 or more during the year (not including itemized reimbursed expenses), you must furnish to him or her a Form 1099-MISC on or before January 31. This form also must be sent to IRS, on or before February 28 of each year. If an independent contractor is paid less than \$600 during the year, there is no requirement to report the compensation. If an independent contractor is incorporated, there is no requirement to report its compensation, even if the amount is in excess of \$600.

## **MUSICIANS**

Some church soloists and organists are classified as independent contractors, and others as employees. The proper category depends upon the particular facts and circumstances of each case. A musician who has learned to perform in order to accept employment with his or her church, who must be carefully supervised, and who does not make available his or her services to other prospective employers, is clearly an employee. A musician who pursues that line of work beyond the hours he performs at one church's services, who offers his services to others, and who does not have a permanent, ongoing employment relationship with the church, is more likely to be an independent contractor. Substitute musicians who are free to work on an as-needed basis are typically classified as independent contractors.

If the musician is determined to be an employee, the rules for tax withholding and reporting for employees described in A1, A2, and A3 of the Rules section above should be followed. If the musician is determined to be an independent contractor, the rules for reporting his or her annual compensation described in B above should be followed.

## **CLERK, TREASURER, READING ROOM LIBRARIAN**

These individuals are regarded as employees since churches and societies have the right to control and direct them as to what is to be accomplished and how it is to be accomplished. The rules for tax withholding and reporting for employees described in A1, A2, and A3 of the Rules section above should be followed.

## **CUSTODIANS**

Sometimes custodians are hired on an employer-employee basis, in which case the rules for tax withholding and reporting compensation of employees described in A1, A2, and A3 of the Rules section should be followed. Sometimes custodians are independent contractors, and the rules for reporting his or her annual compensation described in B should be followed. The proper category depends upon the particular facts and circumstances of each case.

## **READERS AND SUBSTITUTES**

Readers have a special tax category which is described on page 3 of IRS **Publication 517** ("Social Security and Other Information for Members of the Clergy and Religious Workers") as follows:

"Christian Science Readers are considered the same as ordained, commissioned, or licensed ministers."

On page 2 under the heading "Ministers" it states:

"If you are a duly ordained, commissioned, or licensed minister of a church, your earnings for the services you perform in your capacity as a minister are subject to self-employment tax."

The withholding and reporting rules for ministers are different from those for other church workers, and although Readers' earnings are the same as ministers' earnings and subject to self-employment

taxes, the Readers in our Christian Science churches (and ministers in other denominations) are employees. Consequently, for **income tax** purposes, Reader income is viewed as employee earnings and should be reported on a Form W-2, following the reporting instructions in A3 of the Rules section of this guideline. However, you should not withhold income tax on those earnings as you would for other church employees, unless the Reader requests in writing that you do so by filling out Form W-4 certifying the number of exemptions claimed for withholding purposes. Also, you must not withhold the FICA tax described in A2 because, for **Social Security** purposes, Reader income is viewed as self-employment income and is subject to the SECA self-employment tax instead of the FICA Social Security tax which you would withhold for other employees. Compensation of substitute Readers should be handled in the same way. If a Reader or substitute receives less than \$600 for the year, that compensation does not have to be reported on a W-2 nor included on Form 941. It is nevertheless subject to tax.

Some Readers claim exemption from self-employment tax by making a timely filing of Form 4361 with the IRS. The basis of the exemption and the procedure for claiming this exemption is described briefly in our NOTICE TO READERS enclosed, and more fully explained in an information packet which we provide to Readers at their request. Regardless of whether or not the Reader claims exemption from self-employment tax, no Social Security tax should be withheld from his or her pay.

Because Form W-2 is normally used only for employees whose earnings are subject to withholding, we recommend typing the following phrase at the top of each W-2 prepared for your Readers: "Minister earnings not subject to withholding." We also recommend that you order **Publication 517** from the IRS as a reference for the special tax category of ministers and related procedures for reporting minister income. All IRS forms and publications mentioned in this letter can be accessed on line at [www.irs.gov](http://www.irs.gov).

## **LECTURERS**

U.S. Citizens - Lecturers are independent contractors. If the lecture fee is less than \$600 no Form 1099-MISC is required. When the lecture fee (not including itemized, reimbursed expenses) is \$600 or more, it is necessary to file Form 1099-MISC with the IRS, as explained in B of the Independent Contractor portion of this guideline. This requires obtaining the lecturer's Social Security number.

Foreign Lecturers - Special rules apply to foreign lecturers. In some cases it may be necessary to withhold a percentage of their lecture fee for remittance to IRS, depending upon the lecturer's country of origin. Lecture fees of foreign lecturers need to be reported to IRS if over \$600. However, they are not reported on Form 1099-MISC as for U.S. citizens, but rather on Form 1042-S. The foreign lecturer's Social Security number or Individual Tax Identification Number needs to be obtained and included on the Form 1042-S. Contact the Office of the General Counsel for more specific instructions as soon as the foreign lecturer's services have been engaged.

## **GIFT SUBSTANTIATION REQUIREMENTS**

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## **PROVING TAX EXEMPT STATUS OF YOUR CHURCH**

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**To order IRS forms and publications, call IRS at: 1-800-829-3676, or access them on-line at [www.irs.gov](http://www.irs.gov).**

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