

Ministerial Tax Issues



Answers to Common Questions

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Introduction



This brochure explains some important special tax rules that apply to ministers and churches. Many of the questions and answers are related, so it's important to read the entire brochure to understand the issues.

We prepared this brochure to educate churches and ministers, but you should not rely on it for legal or tax advice. If you have questions about a specific situation, see a competent tax advisor who is familiar with tax issues about churches and ministers. Many experienced tax professionals don't understand the unique rules that apply to churches and clergy.

For more information about some of the topics in this brochure, see our annual *Ministers Tax Guide* on our Web site at www.GuideStone.org, or call us at 1-800-262-0511 for a free copy.

Who is a “minister for tax purposes?”

Many churches add “minister” to the title of some of their paid staff members. But the IRS may not consider the same people to be “ministers for tax purposes.” This is a tax issue — not a theological issue — but churches and taxpayers must understand this issue so they can comply with special tax rules that apply only to ministers for tax purposes. **Please read all the questions and answers in this section or you may miss important information.**

Q Why is it important for ministers and churches to know whether a taxpayer is a minister for tax purposes?

A Special rules apply to ministers for tax purposes. Ministers and churches should understand those rules so they can both comply with federal tax laws. Ministers for tax purposes:

- Are eligible for a church-designated housing allowance.
- Are always self-employed for Social Security purposes for their ministerial income.
- Are exempt from federal income tax withholding.
- Use the quarterly estimated tax procedure to pay their taxes unless they elect voluntary withholding.
- May be eligible to opt out of Social Security, although very few ministers qualify to do this.

Q If an employee’s title includes “minister,” is that person a minister for tax purposes?

A A church may call someone a “minister,” but the IRS may not treat that person as a minister for tax purposes — that depends on individual facts and circumstances.

Q Are ordained ministers always ministers for tax purposes?

A Ordained ministers are more likely than licensed or commissioned ministers to be considered ministers for tax purposes. But the IRS also considers other criteria.

Q Are licensed or commissioned ministers always ministers for tax purposes?

A Some licensed or commissioned ministers may be considered ministers for tax purposes. But they are less likely to be considered ministers for tax purposes than ordained ministers. Each individual’s circumstances are important.

Q How does the IRS decide whether a taxpayer is a minister for tax purposes?

A The IRS considers individual facts and circumstances to decide if a taxpayer is a minister for tax purposes. Court cases and practices of different denominations have influenced IRS decisions.

Who is a “minister for tax purposes?”

These five questions will help determine if a person is a minister for federal tax purposes:

1. Is the person ordained, licensed or commissioned?
2. Does the person administer ordinances (baptism and the Lord’s Supper)?
3. Does the person conduct religious worship?
4. Does the person have management responsibilities in the church?
5. Is the person considered to be a religious leader by the church?

Generally, a minister for tax purposes must be ordained, licensed or commissioned and answer “yes” to a majority of the other four questions.

Q Are there any general rules about who will pass these tests?

A As a practical matter, most ordained ministers serving a church will answer “yes” to all the questions. Many licensed and commissioned ministers cannot meet all the criteria, but some can. Taxpayers must make their own decisions about whether they are ministers for tax purposes. If they need help, they should consult a competent tax advisor with experience in ministerial tax issues.

Q Should a church ordain, commission or license someone so the church can designate a housing allowance for that person?

A A church should never ordain, commission or license anyone in an effort to make that person eligible for a minister’s housing allowance.

Churches should ordain, license or commission clergy for theological reasons, not tax reasons. Remember that the IRS doesn’t automatically consider someone a minister for tax purposes simply because that person is ordained, commissioned or licensed.



What is a minister's housing allowance?

Churches may designate a housing allowance for ministers for tax purposes, but there are important rules and limits ministers and churches should understand.

Please read all the questions and answers in this section or you may miss important information.

Q What is the minister's housing allowance?

A The minister's housing allowance is the most important tax benefit available to ministers. Section 107 of the Internal Revenue Code allows "ministers of the gospel" to exclude some or all of their ministerial income designated by their church or church-related employer as a housing allowance from income for federal income tax purposes. Rules and limits are discussed below.

Q Is a housing allowance counted as income for self-employment (SECA) taxes?

A Yes. A housing allowance may be excluded from income for federal income tax purposes, but not for SECA tax purposes.

Example: Reverend Smith's designated housing allowance is 40% (\$16,000) of his \$40,000 salary. Assuming he can exclude the full amount designated by the church, he will not report the \$16,000 as income for federal income tax purposes. But he will have to count the \$16,000 as income for purposes of SECA taxes.

Q What are ministers' responsibilities about the housing allowance?

A As taxpayers, ministers must determine if they are eligible for a housing allowance, understand the limits and follow all the rules. They must keep records to substantiate the cost of everything they exclude from income as housing expenses. If a church designates more than a minister can claim as a housing allowance, the minister is responsible for reporting and paying taxes on the correct amount of income. Any excess housing allowance should be reported as income on the minister's tax return. Ministers must also pay SECA taxes on the fair rental value of their homes.

Q Can ministers deduct mortgage interest on their homes if they have a housing allowance?

A Yes. Ministers who itemize deductions and have a housing allowance may deduct mortgage interest and real estate taxes. Sometimes this is mistakenly called a "double deduction." But a housing allowance is an exclusion from income, and mortgage interest is a deduction.

Q Who is eligible for the minister's housing allowance?

A Only "ministers for tax purposes" are eligible for a housing allowance on their ministerial earnings. Church custodians, secretaries and "ministerial staff" who are not ministers for tax pur-

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poses are not eligible for a housing allowance. A church may call someone a “minister,” but the IRS may not treat that person as a minister for tax purposes — that depends on individual facts and circumstances. The IRS will consider most ordained ministers to be ministers for tax purposes and therefore eligible for a housing allowance on their ministerial income. Licensed and commissioned ministers are less likely to be treated as ministers for tax purposes by the IRS, but it depends on their individual facts and circumstances.

Q Are bivocational ministers eligible for a housing allowance?

A Churches may designate a housing allowance for bivocational ministers who are ministers for tax purposes. A minister's housing allowance can be designated for ministerial income only. Secular employers cannot designate a housing allowance for ministers who are paid for working in non-ministerial jobs.

Q How much can ministers who own their own homes exclude as a housing allowance from income for federal income tax purposes?

A Ministers who own their homes can exclude the lowest of the following three amounts from income for federal income tax purposes when their church employer properly designates a housing allowance for them:

1. The housing allowance designated

- by their church; or
2. Actual housing expenses (including mortgage payments, utilities, property taxes, insurance, furnishings, repairs and improvements); or
3. The fair rental value of the home (furnished, including utilities).

Example: Reverend Smith owns his own home, and his church designated 40% (\$16,000) of his \$40,000 salary as an annual housing allowance in advance. His actual housing expenses for the year were \$15,000. The fair rental value of his home (furnished, including utilities) was \$17,000. Reverend Smith can exclude \$15,000 from income because his actual housing expenses were lower than both the amount designated by the church and the fair rental value of his home.

Q Are ministers who pay off their mortgages eligible for a housing allowance?

A Ministers who pay off their mortgages may have a housing allowance for other eligible expenses of maintaining a home such as utilities, taxes and repairs. With no mortgage payment, their expenses are likely to be much lower. Some ministers mistakenly think that they can exclude the “fair rental value” of their home if they have paid it off. That is not true. The limits discussed above apply to ministers who own their own homes, even if they have paid off their mortgage.

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Q How much can ministers who rent their homes exclude from income for federal income tax purposes?

- A** Ministers who rent their homes can exclude the lower of these two amounts:
1. The amount designated by their church; or
 2. Actual housing expenses (including rent, renter's insurance, utilities, furnishings, repairs and improvements).

Q Can ministers who live rent-free in a parsonage owned by a church have a housing allowance?

- A** Churches can designate a housing allowance for a minister who lives in a parsonage if the minister pays for utilities, repairs, furnishings or other eligible expenses. Ministers who live rent-free in a church-owned parsonage should not include the fair rental value of the parsonage in income for federal income taxes. But they should include the fair rental value of the parsonage in income for SECA taxes. Ministers who live rent-free in a church owned parsonage may exclude the lower of these two amounts:
1. The housing allowance designated by their church; or
 2. Actual housing expenses not paid by the church (including utilities, furnishings, repairs and improvements).

Q What housing expenses are eligible to be excluded from income?

- A** Eligible expenses include mortgage payments (principal and interest); rent payments; real estate taxes; property insurance; utilities (gas, electricity, water, sewer, garbage pickup, local telephone service); appliances and furniture (purchase or rental cost and repairs); remodeling expenses; homeowners' dues; and pest control.

Q What housing expenses are not eligible to be excluded from income?

- A** Cleaning services, food and domestic help are not eligible to be excluded as income as part of a housing allowance. A housing allowance is available only for a principal residence, not for a second home, vacation home, business property or a farm. Home equity loan payments can be excluded as part of a housing allowance only if the loan is used to pay for housing expenses such as remodeling. Home equity loan payments used for college tuition or anything other than eligible housing expenses cannot be excluded from income as a housing allowance.

Q Are down payments on homes eligible housing expenses?

- A** A down payment on a home may be excluded from income as a housing allowance, assuming it does not cause the regular limits to be exceeded.

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Example: Reverend Black made a \$50,000 down payment on a home in 2005. His church designated \$55,000 of his \$60,000 salary as a housing allowance. Reverend Black had other housing expenses of \$10,000, but the fair rental value of the home (furnished, including utilities) was \$25,000. He can only exclude \$25,000 because the fair rental value was less than the church designated amount or his actual expenses, including the down payment. If he had made a down payment of \$12,000, his total housing expenses would have been \$22,000. He could have excluded \$22,000 because that amount is lower than the church-designated amount and the fair rental value.

Q How should a church designate a housing allowance?

A Churches should designate a housing allowance in writing before the beginning of a calendar year. Although the IRS has recognized oral designations, they are difficult to prove. The “governing board” of the church should designate the allowance. In many churches, this is the congregation in a regular or called meeting. But in some churches the deacons, a finance committee or trustees may have the authority to make the designation. A line item in a church budget can be used to designate housing, but a resolution is much better.

Q When can churches designate a housing allowance?

A Churches can designate a housing allowance only prospectively, not retroactively. In other words, the church must designate the housing allowance before the minister earns the income on which the church designates the housing allowance.

Q What happens if a church forgets to designate a housing allowance?

A A minister cannot exclude income as a housing allowance unless the church designated it before the minister earned income for ministerial services. In other words, it has to be designated in advance (prospectively), not retroactively. However, a church may change a housing allowance during the year as long as the change is prospective.

Example: Reverend Smith's church forgot to designate a housing allowance for him in 2005, and doesn't discover the problem until 2006. It is too late for the church to designate an allowance for the 2005 tax year, and Rev. Smith cannot exclude any expenses he spent on housing from income on his 2005 tax return.

Example: Reverend Smith's church discovers in October of 2005 that it forgot to designate a 2005 housing allowance for him. The church can designate a housing allowance for him for the rest of the year. But the

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church can't designate more than he'll earn for ministerial services the rest of the year. Designations have to be made before ministers earn compensation (prospectively), not retroactively.

Q What can a church do to insure that a minister always has some amount designated as a housing allowance?

A Churches should consider designating a housing allowance by adopting a statement "for the current year and for all future years unless otherwise provided." This "safety net" allows a designation to carry over from year to year, preventing problems if a church forgets to designate an allowance one year. However, safety net allowances should not be viewed as a substitute for designating a housing allowance each year.

Q Is there a limit on the amount of a minister's salary that a church can designate as a housing allowance?

A There is no limit on the amount of a minister's salary that a church can designate as a housing allowance. In appropriate situations, a church could designate 100% of a minister's salary as housing allowance. But remember that the amount the minister can exclude from income taxes is limited by the rules discussed above.

Q What if the church designates more than the minister can claim as a housing allowance?

A If the church designates more than the minister can claim as a housing

allowance, the minister is responsible for reporting and paying federal income taxes on the correct amount of income.

Q Should a church report a housing allowance on a minister's Form W-2?

A The housing allowance does not need to be reported on a Form W-2, although some churches choose to report it. For more information, see our annual *Ministers Tax Guide* at www.GuideStone.org or call 1-800-262-0511 for a free copy.

Q Can retired ministers receive some or all of their retirement benefits from GuideStone as a housing allowance?

A Yes. Revenue Ruling 63-156 allows denominational pension boards such as GuideStone to designate a housing allowance for retired minister receiving benefits. Retired ministers may ask GuideStone to designate up to 100% of their retirement benefits as housing. But retired ministers must continue to follow the housing allowance rules and limits discussed above.

Q How will GuideStone know how much to designate as housing?

A Ministers will ask GuideStone to designate an amount on their benefit applications. They can also ask GuideStone to change that amount prospectively by filling out a form. Ministers are always responsible as taxpayers for following the housing allowance rules and reporting the cor-

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rect amount of income, regardless of what they ask GuideStone to designate.

Q Do retired ministers have to pay SECA taxes on their retirement benefits?

A Retired ministers may be eligible to receive favorable SECA tax treatment on their benefits designated as housing allowance by GuideStone. In other words, “retired” ministers may not have to pay SECA taxes on their benefits designated as housing allowance. What constitutes “retirement” for purposes of these rules about SECA tax and the housing allowance depends on an individual’s particular facts and circumstances. Ministers with questions about whether they are “retired” for this purpose should consult their tax advisors. Ultimately, the minister must make this decision. Many facts and circumstances may be relevant in determining whether retirement has occurred. For example, if a minister is receiving retirement benefits from a plan and is making contributions to the same plan, the IRS may not consider that minister retired for purposes of the housing allowance and the favorable SECA tax treatment. Similarly, the IRS may view ministers as not retired if they have not had a meaningful break in service or change in work duties. Ministers and their tax advisors should work together to address the relevant facts and circumstances of each individual case.

Q Can surviving spouses of retired ministers receive some or all of their benefits from GuideStone as a housing allowance?

A Ministers are eligible for housing allowance with respect to ministerial services they provide. The Internal Revenue Code does not contemplate that one person can receive housing allowance based upon another person’s service. It would appear unlikely that a surviving spouse could receive housing allowance that is attributable to ministerial service of the other person. But a surviving spouse who is a minister for tax purposes may be eligible to receive housing allowance with respect to their own ministerial service. Surviving spouses should seek legal or tax advice before asking GuideStone to designate a housing allowance on their benefits.



What should ministers and churches know about Social Security?

Special Social Security rules apply to ministers for tax purposes. Ministers and their churches should understand these rules and their obligations. **Please read all the questions and answers in this section or you may miss important information.**

Q Do ministers have to pay Social Security taxes?

A Ministers for tax purposes must pay SECA taxes on their ministerial earnings unless they have properly followed IRS rules to opt out of Social Security, something few ministers qualify to do. If ministers have opted out of Social Security for their ministerial income, they must pay Social Security taxes on any income earned from secular employment.

Q Why do most ministers have a “dual tax status?”

A Most ministers are employees for federal income tax purposes. But they are always considered self-employed for Social Security purposes. Unlike other taxpayers who are employees for federal income tax purposes, ministers must pay SECA taxes on their ministerial income.

Q What’s the difference between FICA and SECA?

A Social Security taxes or contributions are collected under the Federal Insurance Contributions Act (FICA) and the Self-Employment Contributions Act (SECA).

Many people refer to contributions to Social Security as either FICA or

SECA taxes. Most employers and employees split the cost of Social Security contributions, often called FICA taxes. But self-employed taxpayers pay the full amount themselves and often call these SECA taxes.

Payment of Social Security taxes can be very confusing to churches and ministers because ministers are treated differently than other taxpayers. Unlike other taxpayers, ministers often have a dual tax status. They are employees for income tax purposes but for their ministerial earnings, they are always considered self-employed for Social Security. Unlike other taxpayers who are employees for income tax purposes, ministers must pay Social Security at the SECA tax rate. Their church employers don’t split the cost of Social Security contributions with them as they do for employees who aren’t ministers.

Q Can a church pay FICA for a minister to save the minister money?

A No. A church cannot pay FICA for someone who is a minister for tax purposes. By law, ministers are always treated as self-employed for Social Security purposes and therefore are subject to SECA taxes on their ministerial earnings. Churches that pay FICA for their ministers are not doing them a favor — they are violating the law. When churches mistakenly pay FICA for ministers, they can cause errors in

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Social Security Administration records that may affect future benefits.

Q Can churches give ministers a Social Security “allowance” or “offset”?

A Churches can give ministers a Social Security “allowance” or “offset” to help the minister pay SECA taxes. But a Social Security allowance or offset is extra income. The minister will have to report the allowance as income for federal income tax purposes and as income for SECA tax purposes.

Q Does a minister have to pay Social Security taxes on a church-designated housing allowance?

A Yes. Although a housing allowance is excluded from income for federal income tax purposes, a minister must pay SECA taxes on a housing allowance until the minister retires. Another section of this brochure includes more information about the housing allowance.

Q How can a minister “opt out” of Social Security?

A Few ministers can opt out of Social Security by meeting the strict IRS guidelines required for filing IRS Form 4361, *Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners*.

Three copies of this form must be filed by the due date of the minister’s tax return for the second year in which

the minister had net earnings from self-employment of at least \$400, any part of which came from ministerial income. If the form isn’t filed by that date, it is too late to opt out. The IRS must approve the application. Many ministers do not understand the strict rules for opting out of Social Security. They may not even read the requirements for filing Form 4361 before signing it. Ministers cannot opt out of Social Security because they think it’s a bad investment. When filing Form 4361, a minister makes some representations under penalty of perjury. A minister must certify opposition on the basis of religious principles to acceptance of public insurance. That includes payments for death, disability, retirement or medical care. Ministers must certify that they have informed their ordaining body of their opposition to accepting public insurance benefits on the basis of religious principles. Few ministers will be able to meet these requirements.

Q Do churches have to pay FICA for their non-ministerial employees?

A Churches must pay their share and withhold the employee’s share of FICA for non-ministerial employees except in rare cases where a church has exempted itself from making these payments. Churches cannot classify non-ministerial employees as self-employed to avoid paying FICA.

What should ministers and churches know about Social Security?



What should ministers and churches know about Social Security?

Q Why are some churches exempt from paying FICA for their non-ministerial employees?

A Few churches qualify to be exempt from paying FICA for their non-ministerial employees. Churches have one chance to exempt themselves from their obligation to pay FICA on behalf of their non-ministerial employees. They may file IRS Form 8274, *Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption from Employer Social Security and Medicare Taxes*. Churches filing this form must certify that they are opposed for religious reasons to the payment of Social Security taxes, something few churches can do. The deadline for filing Form 8274 relates to the date on which the church must file its first Form 941 on which it reports its employer share of FICA taxes.

When churches file Form 8274, they shift the burden of Social Security taxes to their employees, including non-ministerial employees. That means all their employees must pay SECA taxes as if they were self employed. Churches that are exempt from paying FICA should be sure that applicants, new hires and current employees understand their obligations to pay SECA taxes.

Q How can taxpayers verify the accuracy of Social Security Administration records?

A The Social Security Administration (SSA) automatically sends annual statements to workers and former workers who are 25 and older. Taxpayers can also request statements at other times by completing Form SSA-7004, *Request for Social Security Statement*, available on the SSA's Web site at www.ssa.gov or by calling the SSA at 1-800-772-1213. All taxpayers should review their statements carefully. Any errors can be reported and corrected more easily the sooner they are found. For more information about annual statements and other Social Security issues, see the Social Security Administration's Web site at www.ssa.gov.



Employee or self-employed?

Many ministers do not think of themselves as “employees” because they have experienced a “call” to the ministry. But most ministers get paid for their services, and the IRS classifies people who are paid for services as either employees or self-employed. **Please read all the questions and answers in this section or you may miss important information.**

Q Are most ministers employees or self-employed?

A Most ministers have a “dual tax status.” That means that although ministers are always self-employed for Social Security purposes (for their ministerial income), they are usually employees for income tax purposes.

Q Can a minister ever be self-employed for income tax purposes?

A Some ministers are self-employed for income tax purposes. For example, full time evangelists who receive compensation from many different churches each year are often self-employed for income tax purposes.

Q Can a minister who is an employee also have self-employment income for federal income tax purposes?

A A minister who is an employee for federal income tax purposes can also have self-employment income for income tax purposes. For example, ministers who work for only one church would be employees for federal income tax purposes for their church pay. But if they perform wed-

dings and funerals or occasionally preach at another church for pay, that income should be reported as self-employment income for federal income tax purposes.

Q Do employees complete their tax returns differently than self-employed persons?

A Most taxpayers are familiar with Form 1040, but employees and self-employed taxpayers complete their returns differently. Taxpayers who are employees for income tax purposes can deduct their unreimbursed business expenses on Schedule A only if they itemize their deductions, and only to the extent their unreimbursed business expenses exceed 2% of their adjusted gross income. Taxpayers who are self-employed for income tax purposes report income and business expenses on Schedule C. They can deduct their business expenses on Schedule C even if they do not itemize. Unlike employees, they can deduct all of their business expenses.

Q Are there any tax advantages to being treated as an employee instead of self-employed for income tax purposes?

A Taxpayers who are employees for income tax purposes may benefit from several tax advantages. Employees may exclude the cost of employer-paid medical and dental insurance from income. They may also exclude the cost of up to \$50,000 of coverage in employer-paid

Employee or self-employed?

group life insurance. Employees may also be eligible to participate in employer-sponsored retirement plans.

Q Are self-employed taxpayers more likely to be audited by the IRS?

A Taxpayers who report their federal income tax returns as self-employed persons are more likely to be audited by the IRS. IRS data shows that self-employed people are less likely to report their income correctly than employees. Remember that ministers who have income from only one church are likely to be viewed as employees for income tax purposes by the IRS. Churches should issue a Form W-2, not a Form 1099, to minister employees. As explained earlier, ministers often have a dual tax status and will pay SECA taxes on their ministerial earnings, but most ministers should file their tax returns as employees and should receive a Form W-2 from their church.

Q What can happen to ministers who incorrectly file their income tax returns as self-employed instead of as employees?

A The IRS can reclassify ministers as employees for income tax purposes if the IRS decides they should have filed their returns as employees instead of as self-employed taxpayers. Remember that employees can deduct business expenses only if they can itemize and only to the extent their business expenses exceed 2% of their adjusted gross

income. If the IRS reclassifies a minister as an employee, the minister may lose business expense deductions and could owe back taxes and penalties to the IRS.

Q Should churches issue ministers a Form 1099 or a Form W-2?

A Generally, churches should issue ministers a Form W-2 because most ministers are employees for income tax purposes even if they are self-employed for Social Security purposes. If a church pays a minister who is truly self-employed for tax purposes, such as a traveling evangelist, at least \$600 a year, the church should issue a Form 1099-MISC to the evangelist.

Q Are churches required by law to withhold income taxes from their ministers' pay if their ministers are employees for income tax purposes?

A No, churches are not required by law to withhold income taxes from their ministers' pay, even if their ministers are employees for income tax purposes. But many ministers voluntarily elect to have churches withhold income taxes from their pay. Most churches are required to withhold income taxes from non-minister employees.

Q Are most paid church workers employees or self-employed?

A Most paid church workers are employees for income tax purposes. Their churches should use Form W-2, not Form 1099, to report their income.

Employee or self-employed?

Q Can churches classify paid workers as independent contractors to avoid paying FICA or withholding income taxes from them?

A No. Churches cannot classify paid workers as independent contractors in an effort to “save money.” They must follow the law. Some ministers think they will save money on taxes if they treat themselves as self-employed for income tax purposes rather than as employees. This is rarely true, but even if it is, ministers and churches should follow IRS rules.

Q What should churches consider when classifying ministers as employees or self-employed?

A Tests used by the IRS and federal courts would classify most ministers as employees for income tax purposes. Remember that most ministers have a dual tax status. Generally, they are employees for income tax purposes but are always self-employed for Social Security purposes with respect to their ministerial income.

The United States Tax Court applied this seven-factor test to ministers in 1994 when deciding if they were employees or self-employed for income tax purposes:

1. The degree of control the employer has over the details of the work.
2. Which party invests in the facilities used for the work.

3. The opportunity the worker has for profit or loss.
4. Whether the employer has the right to discharge the worker.
5. Whether the work is part of the employer's regular business.
6. The permanency of the relationship.
7. The relationship the parties think they are creating.

Q What should a church consider when treating paid workers as independent contractors instead of employees for income tax purposes?

A Remember, ministers usually have a dual tax status and should be treated as employees for income tax purposes and self-employed for Social Security purposes with respect to their ministerial earnings.

Sometimes it's difficult for churches to decide if other paid workers are employees or independent contractors. Employers should generally err on the side of treating workers as employees if they aren't sure. If a church treats a worker as an independent contractor and the IRS later reclassifies that worker as an employee, the church could face substantial fines.

For more information about how the IRS decides if a worker is an independent contractor or employee, see IRS Publication 15-A, *Employer's Supplemental Tax Guide* (*Supplement to*

Employee or self-employed?

Publication 15 (Circular E), Employer's Tax Guide, on the IRS Web site at www.irs.gov.

These facts suggest to the IRS that a worker is an employee instead of self-employed:

- The worker is required to follow an employer's instructions about when, where, and how to work.
- The worker receives on-the-job training from an experienced employee.
- The worker is expected to perform the services personally, and not use a substitute.
- The employer, rather than the worker, hires and pays any assistants.
- The worker has a continuing working relationship with the employer.
- The employer establishes set hours of work.
- The worker is expected to work full time (more than 20 hours per week.)
- The work is done on the employer's premises.
- The worker must submit regular oral or written reports to the employer.

- The employer reimburses the worker's business expenses.
- The employer furnishes the worker's tools, supplies, and equipment.
- The worker does not work for other employers.
- The worker does not advertise his or her services to the general public.

Workers don't have to meet all of these factors to be considered an employee. If they meet most of them, the IRS will consider them to be employees. That's why churches should treat workers as employees rather than independent contractors if they are in doubt.

This educational information is not intended as legal or tax advice. Ministers or churches with specific legal or tax questions should consult a legal or tax advisor who understands ministerial tax issues.



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