

## Clergy and Non Clergy Compensation

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Parish treasurers are responsible for monitoring the salary and housing compensation for clergy. They need to keep abreast of the median family income for their area. Treasurers are also responsible for managing payroll for clergy and non-clergy employees as well as paying vendors and independent contractors. They must also withhold federal income tax, if requested by clergy, and Social Security and Medicare taxes for non-clergy employees.

**All parish rectors should be classified as clergy employees for income tax reporting purposes.**

Medical Insurance paid by the church is only a deductible if a W-2 Form is submitted at the end of the year. Also, the

1. value of other various fringe benefits will be nontaxable;
2. audit risk is much lower;
3. reporting as an employee avoids the additional taxes and penalties often assessed against ministers who are reclassified as employees by the IRS;
4. the IRS considers most ministers to be employees; and
5. most ministers are employees under the tests applied by the IRS and the courts.

Clergy who fill in occasionally for the parish priest and have income from other sources may be classified as an independent contractor, however all of their compensation is reported as taxable non-employee income on a Form 1099. Use the IRS 20-factor test (*Revenue Ruling 87-41*) to determine if more of the factors indicate employee reporting status versus independent contractor status. Click here to view the [IRS 20-factor test](#).

The reporting status of all non-clergy church staff should be confirmed using the IRS 20-factor test. Those who must be classified as employees must be given a Form W-2 at the end of the year. Casual independent contractors and volunteers who receive \$600 or more must be given a Form 1099.

“The risk of being audited is small. But it is much higher for self-employed persons and even higher for self-employed persons who receive only one or two Forms 1099-MISC (as is true for many ministers who report their federal income taxes under self-employed status)”.

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## **CLERGY COMPENSATION**

The 1995 Clergy Compensation Guide was provided by the Office of the Treasurer of the Orthodox Church in America, Syosset, NY. Its purpose was to help lay leaders of a parish arrive at a recommendation on the salary for a parish priest commensurate with the value that Orthodox Christians place on the special pastoral services needed by every parish.

Recommended minimum benefits for clergy:

- Medical Insurance – available through Orthodox Church in America
- Pension – available through Orthodox Church in America. (Parish contribution 6% of total cash salary).
- Life Insurance – available through Orthodox Church in America.
- [Workers' Compensation](#) (required in all states)

## **PAYING THE PRIEST**

**All parish clergy should be classified as clergy employees for income tax reporting purposes.** No Medicare or Social Security taxes may be withheld from clergy compensation. The treasurer is not required to withhold income tax from the clergy salary. If any clergy wishes to have Federal Income taxes withheld, they must submit an IRS Form W-4 annually to the treasurer. The information provided on the IRS Form W-4 may also be used to calculate the amount of California Personal Income Tax (PIT) withholding for the priest.

Employees should complete a California Form DE4 if they wish to specify the a different withholding amount or number of exemptions for the State of California.

### **The Housing Allowance**

Clergy may wish to designate all or part of their compensation as a housing allowance instead of salary. The amount of the housing allowance must be approved at a parish council meeting and documented in the minutes of that meeting. Housing allowances may only be approved for compensation paid after the housing allowance has been authorized. The housing allowance is not subject to income taxes, thus if the treasurer has been directed to withhold taxes, state and federal income tax is not computed on the housing allowance portion.

### **Car Allowance**

Some churches use the IRS-approved mileage rate for the year, while others use a rate that is either more than or less than the IRS rate. If employees substantiate business miles with adequate records at least every 60 days and are reimbursed at the IRS approved rate, then this is an "accountable" arrangement and the church does not report the reimbursements as income on the employee's W-2 form.

If employees substantiate business miles with adequate records at least every 60 days and are reimbursed at an amount MORE than the IRS approved rate, this arrangement is "accountable", but only up to the IRS approved rate.

If employees substantiate business miles with adequate records at least every 60 days and are reimbursed at an amount LESS than the IRS approved rate, this arrangement is "accountable". The church does not report any reimbursements on the employee's W-2 form.

If an employee does not substantiate business miles with adequate records, or within every 60 days, then all reimbursements are added to the employee's W-2 form as income.

## **PAYING AND REPORTING EMPLOYEE WITHHOLDING**

### **Withholding requirements each payday**

Withhold federal income tax based on each clergy or employee's Form W-4. If withholding of clergy self-employment taxes has been requested, that amount should be included as the amount of federal income tax.

Withhold any non-clergy employee's share of social security and Medicare taxes.

Withhold California state income tax based on each clergy or employee's Form W-4 or state Form DE-4.

### **Deposit requirements Monthly or Quarterly**

The treasurer must forward taxes withheld to the IRS or the State of California. Paying electronically is easy, but online accounts for the parish must be set up well in advance before payments can be transmitted electronically.

The frequency of deposits depends on the dollar amount of taxes withheld. In general, however, federal tax deposits are made monthly and state tax deposits are made quarterly.

### ***Federal Tax Deposits***

You can make your monthly deposits electronically using the Electronic Federal Tax Payment System (EFTPS) or using the deposit coupon, Form 8109-B, Federal Tax Deposit Coupon. Five to six weeks after you receive your employer identification number (EIN), the IRS will send you the coupon book. If you have a deposit due and there is not enough time to obtain a coupon book, blank coupons (Form 8109-B) are available at most IRS offices. You cannot use photocopies of the coupons to make your deposits.

### ***State of California Tax Deposits***

All tax payments must be submitted with a completed Payroll Tax Deposit (DE 88/DE 88ALL) unless payments are made by electronic funds transfer. Churches do not make Unemployment Insurance, Employment Training Tax (ETT), or State Disability Insurance (SDI) deposits. State deposit due dates are generally the same as federal deposit due dates. Penalty and interest are charged on late deposits.

### **Quarterly Federal Withholding Reporting Requirements**

By the end of the month following each calendar quarter (April 30, July 31, October 31, and January 31), you must file form 941 with the IRS. See the topic "Examples of Forms W-2s, 941s and 1099s" under the Resources tab for specifics on how to fill out this form.

### **Quarterly State of California Withholding Reporting Requirements**

Beginning in 2011, state income tax withholding for all employees must be reported each quarter on the Quarterly Contribution Return and Report of Wages Form DE 9. You may also file the form online at <http://eddservices.edd.ca.gov>. Quarterly withholding tax payments are due and delinquent on the same dates as Form DE 9. Wages for each employee is reported on Form DE 9C.

## **Year-End Federal Withholding Reporting Requirements**

- Remind clergy and employees to submit a new Form W-4 if they want to change their withholding for next year.
- Reconcile Form 941, Employer's Quarterly Federal Tax Return with Form W-2, Wage and Tax Statement and Form W-3, Transmittal of Income and Tax Statements
- Furnish clergy and employees with a Form W-2.
- File Copy A of Forms W-2 and the transmittal form W-3 with the Social Security Administration.

### **FILLING OUT FORM W-2**

Since January 2002, the Social Security Administration (SSA) has offered employers with 20 or fewer employees the ability to go to a Web site, complete Forms W-2 online, and submit them electronically to SSA. Online even prepares the W-3 for you and allows you to print copies of the W-2s suitable for distribution to your employees.

A simple registration process is required. You will receive a PIN immediately and a password about two weeks later. You can register online at <http://www.ssa.gov/bsa/> or call 800-772-6270. You can download and print Forms W-2 and W-3 from the SAA site.

You cannot use electronic filing if clergy compensation is composed of only a housing allowance. You must file a paper form. The following is an example of how to fill out a 2009 Form W-2 for clergy.

See the topic "Completing Forms W-2s, 941s and 1099s" under the Resources tab for specifics on how to fill out this form.

### **REPORTING NON EMPLOYEE COMPENSATION**

Furnish each independent contractor or volunteer who receives \$600 or more during the year with Form 1099-Misc. File Forms 1099 and the Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

**Workers' Compensation** (*Excerpts from Church Treasurer Alert, September 2002*)

“Workers’ compensation laws have been enacted in all fifty states. These laws provide compensation to employees as a result of job-related injuries and illnesses. The amount of compensation is determined by law and generally is based on the nature and extent of the employee’s disability. In exchange for such benefits, employees give up the right to sue an employer directly. Fault is irrelevant under workers compensation laws.”

"In a compulsory state, an employer that fails to obtain workers’ compensation insurance will ordinarily be subject to a lawsuit by an injured employee, or may be treated as a “self-insurer” and be liable for the damages specified by the workers compensation law."

"Failure to purchase workers’ compensation insurance can result in a significant uninsured risk...In the case of a fatality, the damages can be in the hundreds of thousands of dollars."

“An injured employee may be able to sue the church for damages in a civil lawsuit. Unlike workers’ compensation benefits, there is no limit on the amount a court can award in a civil lawsuit. The damages a court awards in a civil lawsuit will not be covered under most church insurance policies. Often, general liability policies exclude employee injuries on the assumption that they are covered in a workers compensation policy."

## IRS 20 FACTOR TEST

FACTOR	EE	SE
1. Instructions. Is the worker required to comply with instructions about when, where, and how to work? If so, check EE; if not, check SE.		
2. Training. Is the worker trained by an experienced employee or by other means? If so, check EE; if not, check SE.		
3. Integration. Are the worker's services integrated into the employer's business operations? If so, check EE; if not, check SE.		
4. Services rendered personally. Must services be rendered personally by the worker? If so, check EE. If the worker may hire a substitute to perform the work without the church's knowledge or consent, check SE.		
5. Hiring, supervising, and paying assistants. Does the church hire, supervise, and pay assistants to assist the worker? If so, check EE. If the worker hires, supervises, and pays his or her own assistants, check SE.		
6. Continuing relationship. Is there a continuing working relationship between the church and worker? If so, check EE; if not, check SE.		
7. Setting hours of work. Does the employer establish set hours of work? If so, check EE. Is the worker a "master of his own time"? If so, check SE.		
8. Full time required. Must the worker devote full time to the church's business? If so, check EE. If the worker is hired "by the job" and may offer his or her services to other employers, check SE.		
9. Doing work on employer's premises. If the worker must perform his or her duties on the church's premises, check EE. If not, check SE.		
10. Order or sequence of work. If the worker must perform services in an order or sequence set by the church, check EE. If not, check SE.		
11. Oral or written reports. If the worker is required to submit regular oral or written reports to the employer, check EE. If not, check SE.		
12. Payment by hour, week, month. If the worker is paid by the hour, week, or month, check EE. If paid by the job on a lump-sum basis (even if paid in installments), check SE.		
13. Payment of business expenses. Does the church pay the worker's business expenses? If so, check EE; if not, check SE.		
14. Furnishing of tools and materials. If the church furnishes tools and materials for the worker's use, check EE. If the worker provides his or her own tools and materials, check SE.		
15. Significant investment. Does the church furnish all necessary facilities (equipment and premises)? If so, check EE; if not, check SE.		
16. Realization of profit or loss. May the worker realize a profit or suffer a loss as a result of his or her services? If so, check SE; if not, check EE.		
17. Working for more than one organization at a time. Does the worker perform services for a number of organizations besides your church? If so, check SE. If not, check EE.		
18. Making services available to the general public. Does the worker make his or her services available to the general public (by having his or her own office and assistants, holding a business license, advertising in newspapers and telephone directories)? If so, check SE; if not, check EE.		
19. Right to discharge. Can the church dismiss the worker at any time? If so, check EE; if not, check SE. Self-employed persons usually cannot be fired if they produce results that fulfill their contract specifications.		
20. Right to resign. Can the worker end the relationship with the church at any time without incurring liability? If so, check EE; if not, check SE. A self-employed person usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete the job.		

*Note: In order to determine if a pastor or lay church worker is an employee or self-employed for federal income tax reporting purposes, follow these simple steps: (1) read the description of each factor in the table below; (2) check the appropriate column ("EE" refers to employee and "SE" refers to self-employed); and (3) total the check marks for each column. The column with more marks indicates the worker's correct status.*