

Federal Reporting Requirements for Churches

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TABLE OF CONTENTS

INTRODUCTION	3	
Maximizing Tax Benefits for Your Minister	4	
Housing and parsonage allowances	4	
Accountable reimbursements.....	6	
Flexible spending accounts	7	
Section 403(b) plans	8	
 COMPLYING WITH FEDERAL PAYROLL TAX REPORTING		
OBLIGATIONS	9	
Step 1. Obtain an employer identification number (EIN) from the federal government if this has not been done	9	
Step 2. Determine whether each church worker is an employee or self-employed	10	
Step 3. Obtain the Social Security number for each worker.....	11	
Step 4. Have each employee complete a Form W-4.....	12	
Step 5. Compute each employee’s taxable wages	12	
Step 6. Determine the amount of income tax to withhold from each employee’s wages	12	
Step 7. Withhold Social Security and Medicare taxes from nonminister employees’ wages	14	
Step 8. The church must deposit the taxes it withholds.....	16	
Step 9. All employers subject to income tax withholding, Social Security and Medicare taxes, or both, must file Form 941 quarterly	17	
Step 10. Prepare a Form W-2 for every employee, including ministers employed by the church.....	18	
Step 11. Prepare a Form 1099-NEC for every self-employed person receiving nonemployee compensation of \$600 or more.....	26	
 OTHER IMPORTANT REQUIREMENTS FOR CHURCHES		28
Reporting group term life insurance	28	
New Form I-9.....	29	
Annual certification of racial nondiscrimination	31	
Charitable contribution substantiation rules	33	
Affordable Care Act reporting.....	35	

INTRODUCTION

The most important federal reporting obligation for most churches is the withholding and reporting of employee income taxes and Social Security taxes. These payroll reporting requirements apply, in whole or in part, to almost every church. Yet many churches do not fully comply with them for various reasons, including the following:

- The church treasurer is elected by the congregation and does not remain in office long enough to understand the application of the payroll tax reporting rules to churches.
- Church leaders assume that churches are exempt from the payroll tax reporting requirements. This is a false assumption. The courts have rejected the argument that the application of the payroll tax reporting rules to churches violates the constitutional guaranty of religious freedom.
- There are several special payroll tax reporting rules that apply to churches, and these often are not clearly understood by church staff members. These special rules include:
 - While most ministers are employees for federal income tax reporting, they are self-employed for Social Security with respect to compensation they receive for ministerial services. This means that they pay the “self-employment tax” (SECA) rather than the employee’s share of Social Security and Medicare taxes (FICA)—even if they report their federal income taxes as a church employee. It is a common mistake for churches to treat ministers as employees for Social Security and to withhold the employee’s share of Social Security and Medicare taxes from their wages.
 - Wages paid to a minister as compensation for ministerial services are exempt from mandatory federal income tax withholding whether the minister reports federal income taxes as an employee or as self-employed. Ministers use the estimated tax procedure to pay their federal taxes unless they have entered into a voluntary withholding agreement with their employing church (explained below).
 - Some churches are exempt from the employer’s share of Social Security and Medicare taxes because they filed a timely exemption application. For most churches, this exemption had to be filed before October 31, 1984. The exemption does not excuse the church from income tax withholding, filing Form 941, or issuing W-2 forms to church employees. The nonminister employees of a church that filed this exemption application are treated as self-

employed for Social Security and must pay the self-employment tax (SECA) if they are paid \$108.28 or more during the year.

WARNING Federal law specifies that any corporate officer, director, or employee who is responsible for withholding taxes and paying them over to the government may be liable for a penalty in the amount of 100 percent of such taxes if they are either not withheld or not paid over to the government. This penalty is of special relevance to church leaders, given the significant rate of noncompliance by churches with the payroll reporting procedures.

MAXIMIZING TAX BENEFITS FOR YOUR MINISTER

Housing and parsonage allowances

KEY POINT The housing allowance was challenged in federal court as an unconstitutional preference for religion. In 2019, a federal appeals court rejected this argument and affirmed the constitutionality of the allowance.

The most important tax benefit available to ministers who own or rent their home is the housing allowance exclusion. Unfortunately, many churches fail to designate a portion of their minister's compensation as a housing allowance, and thereby deprive the minister of an important tax benefit. A church may provide a housing allowance to any properly credentialed minister performing qualifying ministerial duties for the church. Churches are not limited to providing this benefit to only a lead pastor but may provide the benefit to any qualifying minister on staff.

A housing allowance is simply a portion of a minister's compensation that is designated in advance by the minister's employing church. For example, in December of 2023 a church agrees to pay its pastor "total compensation" of \$45,000 for 2024 and designates \$15,000 of this amount as a housing allowance (the remaining \$30,000 is salary). This costs the church nothing. It is simply a matter of designating part of a minister's salary as a housing allowance.

The tax code specifies that the housing allowance of a minister who owns or rents a home is nontaxable in computing federal income taxes to the extent that it is (1) declared in

advance, (2) used for housing expenses, and (3) does not exceed the fair rental value of the minister's home (furnished, plus utilities).

KEY POINT A church cannot designate a housing allowance retroactively. It can only be designated prospectively.

KEY POINT Although repayments of principal and interest on a home mortgage loan qualify as a housing expense to which a housing allowance can be applied, costs associated with refinancing a principal residence or a home equity loan qualify only if the proceeds are used for housing expenses.

Ministers who live in a church-owned parsonage that is provided “rent-free” as compensation for ministerial services do not include the annual fair rental value of the parsonage as income in computing their federal income taxes. The annual fair rental value is not “deducted” from the minister's income. Rather, it is not reported as additional income on Form 1040 (as it generally would be by non-clergy workers).

Ministers who live in a church-provided parsonage do not pay federal income taxes on the amount of their compensation that their employing church designates in advance as a parsonage allowance, to the extent that the allowance represents compensation for ministerial services and is used to pay parsonage-related expenses such as utilities, repairs, and furnishings.

Note that the housing allowance and fair rental value of a parsonage are nontaxable only when computing federal income taxes. Ministers must include their housing allowance and rental value of a parsonage as taxable income when computing their self-employment taxes (except for retired ministers). In addition, any housing provided to a minister that is excludable from taxable income pursuant to Internal Revenue Code (IRC) §119 (relating to housing provided on an employer's premises “for the convenience of the employer”) also must be included in a minister's taxable income when computing self-employment income.

KEY POINT Be sure that the designation of an allowance for the following year is on the agenda of the church or church board for its last meeting of the current year. The designation should be an official action, and it should be duly recorded in the minutes of the meeting. The Internal Revenue Service (IRS) also recognizes designations in employment contracts and budget line items—assuming that the church duly adopted the contract or the budget and it is reflected in a written document. If a designation is made after the start of a new calendar year, remember that it can only operate prospectively.

Accountable reimbursements

Through 2025, the deduction for unreimbursed business expenses has been eliminated. The elimination of this deduction hits some clergy hard. Many tax professionals encourage the use of accountable reimbursement plans by churches as a means of easing the negative tax impact. While the deduction as a miscellaneous itemized deduction for unreimbursed expenses has been eliminated, the tax code still excludes from tax the employer reimbursements of employee business expenses under an *accountable plan*. Accountable reimbursement plans provide assurance that churches bear the costs of operating, rather than clergy and other employees bearing these costs to their financial detriment.

To be “accountable,” a church’s reimbursement arrangement must comply with all four of the following rules:

- Expenses must have a business connection—that is, the reimbursed expenses must represent ordinary and necessary expenses incurred by an employee while performing services for the employer.
- Employees are only reimbursed for expenses for which they provide adequate accounting within a reasonable period of time (not more than 60 days after an expense is incurred).
- Employees must return any excess reimbursement or allowance within a reasonable period of time (not more than 120 days after an excess reimbursement is paid).
- The income tax regulations caution that in order for an employer’s reimbursement arrangement to be accountable, it must meet a “reimbursement requirement” in addition to the three requirements summarized above. The reimbursement requirement means that an employer’s reimbursements of an employee’s business expenses come out of the employer’s funds and not by reducing the employee’s salary.

KEY POINT Reimbursements of business expenses under an accountable arrangement are not reported as taxable income on an employee’s Form W-2 or Form 1040, and there are no deductions to claim. In effect, the employee is reporting to the church rather than to the IRS. This often translates into significant tax savings for the employee.

An *accountable* reimbursement arrangement should be established by the church board or congregation in an appropriate resolution. Be sure to condition the reimbursement of any expense on adequate substantiation. This will include written evidence for all expenses and receipts for most expenses of \$75 or more and for all lodging expenses, no matter the amount. For most expenses, the evidence must substantiate the amount, date, place, and business nature of each expense. The key point is this: A church must require the same degree of substantiation as would be required for a deduction on the minister’s income

tax return. The provision of this arrangement also provides a way for a church to define what expenses will be reimbursed in addition to how the above requirements must be met.

Churches occasionally reimburse ministers for *nonbusiness* expenses. Such reimbursements, though they require an accounting, ordinarily must be included in the minister's wages for income tax reporting purposes, and they are not deductible by the minister. Instead, the entire amount of these reimbursements must be reported as taxable income on the minister's Form W-2 and Form 1040. For example, reimbursing the travel costs associated with the minister's spouse to travel with the minister is a nonbusiness expense, even if the church requires the spouse to accompany the minister for accountability purposes. The reimbursement of the travel expenses would be taxable to the minister.

Flexible spending accounts

A health flexible spending account (FSA) allows an employee to be reimbursed for medical expenses. FSAs are usually funded through voluntary salary reduction agreements with one's employer operated through a qualifying Section 125 plan (also known as a cafeteria plan). No payroll taxes are deducted from employee contributions. The employer also may contribute.

FSAs have several benefits, including the following: (1) employer contributions can be nontaxable; (2) no payroll taxes are deducted from employee contributions; (3) withdrawals may be tax-free if used to pay qualified medical expenses; (4) employees can withdraw funds from an FSA to pay qualified medical expenses even if they have not placed the funds in the account.

Generally, distributions from a health FSA must be paid to reimburse the employee for qualified medical expenses. Qualified medical expenses are those incurred by an employee, or the employee's spouse and certain dependents (including a child under age 27 at the end of the year). Employees must be able to receive the total amount they have elected to contribute for the year at any time during the year, regardless of the amount they have actually contributed.

FSAs are "use-it-or-lose-it" plans. This means that amounts in the account at the end of the plan year cannot be carried over to the next year. However, the plan can provide for either a grace period of up to 2 ½ months after the end of the plan year or a carryover of an amount not to exceed a certain dollar amount. If there is a grace period, any qualified medical expenses incurred in that period can be paid from any amounts left in the account at the end of the previous year. If the plan allows for the option of rolling a set amount

from one year to the following year, the limit for 2023 to 2024 plan years is \$610. In 2024, this amount increases to \$640. An employer is not permitted to refund any part of the balance to the employee.

The maximum amount available for reimbursement of incurred medical expenses of an employee and the employee's dependents under a health FSA cannot exceed \$3,050 for 2023 and \$3,200 for 2024.

Note that the Affordable Care Act prohibits employers from using an FSA to pay for, or reimburse, the cost of individually owned health insurance policies with pre-tax dollars.

KEY POINT Non-prescription medicines (other than insulin) do not qualify as an expense for FSA purposes unless they are prescribed by a doctor.

Section 403(b) plans

A 403(b) plan, also known as a tax-sheltered annuity or retirement income account, is a retirement plan for certain employees of churches and other tax-exempt organizations. These plans have the following tax benefits: (1) Employees do not pay income tax on allowable contributions until they begin making withdrawals from the plan, usually after they retire. Note, however, that lay employees must pay Social Security and Medicare tax on their contributions to a 403(b) plan made under a salary reduction agreement. Due to a differing definition of taxable income for self-employment tax, clergy do not pay self-employment tax on a clergy's elective deferral into the 403(b) plan. (2) Earnings and gains on amounts in an employee's 403(b) account are not taxed until they are withdrawn. (3) Employees may be eligible to claim the retirement savings contributions credit ("saver's credit") for elective deferrals contributed to a 403(b) account. (4) A portion of the retirement payments from the 403(b) plan may be designated as housing allowance for ministers participating in church plans who are still credentialed ministers during retirement years.

There are dollar limits on the contributions that can be made to a 403(b) account each year. If contributions made to a 403(b) account are more than these contribution limits, penalties may apply. Generally, annual contributions to a 403(b) plan cannot exceed either the limit on annual additions or the limit on elective deferrals. However, there are special catch-up elections that allow for greater contributions. See *IRS Publication 571* for details.

COMPLYING WITH FEDERAL PAYROLL TAX REPORTING OBLIGATIONS

Step 1. Obtain an employer identification number (EIN) from the federal government if this has not been done.

This number must be recited on some of the returns listed below and is used to reconcile a church's deposits of withheld taxes with the W-2 forms it issues to employees. The EIN is a nine-digit number that looks like this: 00-0246810. If your church does not have an EIN, you may apply for one online. Go to the IRS website at irs.gov for information. You may also apply for an EIN by submitting the Form SS-4 by fax or mail to the IRS. You should have only one EIN. A church should not use the EIN of another church or organization, even if the church is part of a denominational ruling.

KEY POINT An employer identification number is not a “tax exemption number” and has no relation to your nonprofit corporation status. It merely identifies you as an employer subject to tax withholding and reporting and ensures that your church receives proper credit for payments of withheld taxes.

KEY POINT Each EIN has a responsible party attached to it. This is the contact person the IRS associates with the organization. IRS regulations now require EIN holders to update responsible party information within 60 days of any change by filing Form 8822-B, Change of Address or Responsible Party – Business. Due to continual changing leadership, most churches need to file this form to update the information with the IRS. Churches may also need to file the form each time there is a change in the position reported.

Step 2. Determine whether each church worker is an employee or self-employed.

In some cases, it is difficult to determine whether a particular worker is an employee or is self-employed. If in doubt, churches should treat a worker as an employee since substantial penalties can be assessed against a church for treating a worker as self-employed whom the IRS later reclassifies as an employee. In general, a self-employed worker is one who is not subject to the control of an employer with respect to how a job is to be done. Further, a self-employed person typically is engaged in a specific trade or business and offers his or her services to the general public.

The IRS and the courts have applied various tests to assist in classifying a worker as an employee or self-employed. Factors that tend to indicate employee status include the following:

- The worker is required to follow an employer's instructions regarding when, where, and how to work.
- The work performed is a part of the employer's usual course of business.
- 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 guaranteed a regular wage amount for an hourly, weekly, or other period of time.
- The worker is expected to work full time.
- The work is done on the employer's premises.
- The worker must submit regular oral or written reports to the employer.
- The worker's business expenses are reimbursed by the employer.
- 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.

Not all of these factors must be present for a worker to be an employee. But if most of them apply, the worker is an employee. The most important factors are the first two listed because they indicate an extensive amount of control over the worker and that the worker is needed for the general operations of the business to work. Once again: If in doubt, treat the worker as an employee.

KEY POINT Some fringe benefits are nontaxable only when received by employees.

Step 3. Obtain the Social Security number for each worker.

After determining whether a worker is an employee or self-employed, you must obtain the worker's Social Security number. A worker who does not have a Social Security number can obtain one by filing Form SS-5. This is a Social Security Administration form, not an IRS form. If a self-employed worker performs services for your church (and earns at least \$600 for the year) but fails to provide you with his or her Social Security number, then the church is required by law to withhold a specified percentage of compensation as backup withholding. The backup withholding rate is 24 percent for 2024.

A self-employed person can stop backup withholding by providing the church with a correct Social Security number.

The church will need the correct number to complete the worker's Form 1099-NEC (discussed later).

Churches can be penalized if the Social Security number they report on a Form 1099-NEC is incorrect, unless they have exercised "due diligence." A church will be deemed to have exercised due diligence if it has self-employed persons provide their Social Security numbers using Form W-9. It is a good idea for churches to present self-employed workers (e.g., guest speakers, contract laborers) with a Form W-9, and to backup withhold unless the worker returns the form. The church should retain each Form W-9 to demonstrate its due diligence.

All taxes withheld through backup withholding must be reported to the IRS on Form 945. Form 945 for 2023 must be filed with the IRS by January 31, 2024. However, if you made deposits on time in full payment of the taxes for the year, you may file the return by February 12, 2024.

KEY POINT Many times churches will host guest speakers or other workers from other countries. Nonresident aliens are not taxed in the same manner as US citizens. While they are not subject to the above rules, they are subject to other

mandatory reporting and withholding rules. Prior to making payments, churches should seek professional assistance in determining the applicable reporting and withholding rules for payments made to workers from other countries.

Step 4. Have each employee complete a Form W-4.

Employees, except for ministers, need to provide their employer with a W-4 form to enable the employer to know how much income tax to withhold from their pay. Ministers may provide a W-4 form, if they elect to have federal income tax withheld from their pay. In the past, withholding was based on the number of “allowances” an employee claimed on Form W-4. The IRS made major changes to Form W-4 for tax year 2020 and future years. Most importantly, withholding allowances are no longer used to determine the amount of taxes at all. To provide maximum accuracy, employees are encouraged to use the Tax Withholding Estimator available at www.irs.gov/W4app.

Step 5. Compute each employee’s taxable wages.

The amount of taxes that a church should withhold from an employee’s wages depends on the amount of the employee’s wages and the information contained on his or her Form W-4. A church must determine the wages of each employee that are subject to withholding. Wages subject to federal withholding include pay given to an employee for service performed. The pay may be in cash or in other noncash forms. Measure pay that is not in money (such as property) by its fair market value and not the cost to the church. Wages often include several items in addition to salary. (There is a comprehensive list of examples in Step 10.)

Step 6. Determine the amount of income tax to withhold from each employee’s wages.

The way employers determine federal income tax withholding changed with the reformatting of the Form W-4 (Employee’s Withholding Certificate) in 2020. Employers use *IRS Publication 15-T* to determine the amount of federal income tax to withhold from their employees’ wages.

Employees request adjustments to their withholding using Form W-4 to provide employers with amounts to increase or reduce taxes and amounts to increase or decrease the amount of wage income subject to income tax withholding. The computations

described in *IRS Publication 15-T* allow employers to figure withholding, regardless of whether the employee provided a Form W-4 in an earlier year or provides the new version of Form W-4 in 2024. *IRS Publication 15-T* also allows employers to figure withholding based on their payroll system (automated or manual) and withholding method of choice.

IRS Publication 15-T describes five methods for determining the amount of income taxes to be withheld from an employee's wages in 2024. The appropriate method depends on whether the employee's Form W-4 was provided before 2020 when changes were initiated:

- Percentage method tables for automated payroll systems
- Wage bracket method tables for manual payroll systems with forms W-4 from 2020 or later
- Wage bracket method tables for manual payroll systems with forms W-4 from 2019 or earlier
- Percentage method tables for manual payroll systems with Forms W-4 from 2020 or later
- Percentage method tables for manual payroll systems with Forms W-4 from 2019 or earlier

KEY POINT The IRS asserts that the current method for computing withheld taxes is allegedly simpler. But many employers believe the opposite is true. Fortunately, the IRS provides an online withholding estimator at www.irs.gov/W4App to assist employees in determining the amount to include on the Form W-4.

Wages paid to a minister as compensation for ministerial services are exempt from income tax withholding. However, ministers who report their income taxes as employees can enter into a voluntary withholding arrangement with their church. Under such an arrangement, the church withholds federal income taxes from the minister's wages as if the minister's wages are not exempt from withholding. Some ministers find voluntary withholding attractive since it avoids the often-difficult task of budgeting for four significant estimated tax payments.

A minister may initiate voluntary withholding by providing the church with a completed Form W-4. The filing of this form is deemed to be a request for voluntary withholding. A minister may also request an amount of withholding through any other written instruction.

Voluntary withholding arrangements may be terminated at any time by either the church or minister, or by mutual consent.

The tax code specifies that ministers are self-employed for Social Security with respect to services performed in the exercise of ministry. Therefore, a church whose minister elects voluntary withholding is only obligated, and may only agree, to withhold the minister's federal income taxes. The minister is still required to use the estimated tax procedure to report and prepay self-employment taxes. However, ministers electing voluntary withholding can indicate on line 4c (2023 and 2024 Form W-4) that they want an additional amount of income taxes to be withheld from each pay period that will be sufficient to pay the estimated self-employment tax liability by the end of the year. This additional withholding of income taxes becomes a credit that can be applied against a minister's self-employment taxes on Form 1040. It is reported by the church as additional income taxes withheld on its quarterly Form 941. Many churches incorrectly report these additional withholdings as Social Security and Medicare taxes.

Since any tax paid by voluntary withholding is deemed to be evenly paid throughout the tax year, a minister who pays self-employment taxes using this procedure may not be liable for any underpayment penalty, assuming that a sufficient amount of taxes are withheld.

Step 7. Withhold Social Security and Medicare taxes from nonminister employees' wages.

Employees and employers each pay Social Security and Medicare taxes (FICA) equal to 7.65 percent of an employee's wages when wages paid are \$100 or more in a calendar year (for a total of 15.3 percent). The 7.65 percent tax rate is comprised of two components: (1) a Medicare hospital insurance tax of 1.45 percent, and (2) an "old age, survivor and disability" (Social Security) tax of 6.2 percent. There is no maximum amount of wages subject to the Medicare tax. For 2023, the maximum wages subject to the Social Security tax (the 6.2 percent amount) was \$160,200. It increases to \$168,600 for 2024.

The employee portion of the Medicare (HI) tax is increased by an additional tax of 0.9 percent on wages received in excess of \$200,000. (This tax is not matched by the employer.) This additional tax is required to be withheld once wages paid to a nonminister employee reach \$200,000. However, unlike the general 1.45 percent HI tax on wages, this additional tax is on the combined wages of the employee and the employee's spouse, in the case of a joint return. The threshold amount is \$250,000 in the case of a joint return or surviving spouse, and \$200,000 for single persons. The \$250,000 and \$200,000 amounts are not adjusted for inflation and remain the same for 2024.

KEY POINT Even though the tax does not start until \$250,000 for a couple

married filing jointly, the withholding mandate starts with any employee’s wages exceeding \$200,000. Therefore, it is possible for an employee to have the additional tax withheld but not owe the additional tax. In these instances, the additional tax withheld is treated as an additional tax payment on the employee’s individual tax return. Since the tax is on combined wages for married couples filing jointly, it is also possible that the combination of wages on a couples’ Form 1040 will initiate the tax even though there has not been any associated withholding of the tax.

The Social Security tax rates for 2023 and 2024 are shown in the following table:

Year	Tax on Employee	Tax on Employer	Combined Tax
2023	7.65%	7.65%	15.3%
2024	7.65%	7.65%	15.3%

KEY POINT Federal law allowed churches that had nonminister employees as of July 1984 to exempt themselves from the employer’s share of Social Security and Medicare taxes by filing a Form 8274 with the IRS by October 31, 1984. Many churches did so. The exemption was available only to those churches that were opposed for religious reasons to the payment of Social Security taxes. (Prior to 1984, nonprofit organizations, including churches, did not participate in the Social Security system.) The effect of such an exemption is to treat all nonminister church employees as self-employed for Social Security purposes. Such employees must pay the self-employment tax (SECA) if they are paid \$108.28 or more for the year. Churches hiring their first nonminister employee after 1984 have until the day before the due date for their first quarterly 941 form to file the exemption application. Churches can revoke their exemption by filing a Form 941 accompanied by full payment of Social Security and Medicare taxes for that quarter. Many churches have done so, often inadvertently.

Step 8. The church must deposit the taxes it withholds.

Churches accumulate three kinds of federal payroll taxes:

- income taxes withheld from employees' wages,
- the employees' share of Social Security and Medicare taxes (withheld from employees' wages), and
- the employer's share of Social Security and Medicare taxes.

Most employers must deposit payroll taxes on a monthly or semiweekly basis. An employer's deposit status is determined by the total taxes reported in a four-quarter "lookback" period. For 2024, the lookback period will be July 1, 2022, through June 30, 2023.

Monthly depositor rule. Churches that reported payroll taxes of \$50,000 or less in the lookback period will deposit their withheld taxes for 2024 on a monthly basis. Payroll taxes withheld during each calendar month, along with the employer's share of FICA taxes, must be deposited by the 15th day of the following month.

Semiweekly depositor rule. Churches that reported payroll taxes of more than \$50,000 in the lookback period must deposit their withheld taxes on a semiweekly basis. This means that for paydays falling on Wednesday, Thursday, or Friday, the payroll taxes must be deposited on or by the following Wednesday. For all other paydays, the payroll taxes must be deposited on the Friday following the payday.

Next-Day depositor rule. Regardless of whether a church is a monthly schedule depositor or a semiweekly schedule depositor, if accumulated taxes withheld reach \$100,000 or more on any day during a deposit period, the church must deposit the taxes by the next business day. Additionally, any employer subject to this deposit rule becomes a semiweekly depositor for the remainder of the calendar year and the following calendar year.

Payment with return rule. If you accumulate less than a \$2,500 tax liability during the current or previous quarter, you may make a payment with Form 941 instead of depositing monthly. See *IRS Publication 15* for more information.

KEY POINT All deposits must be made using the Electronic Federal Tax Payment System (EFTPS). There are penalties for depositing late, or for mailing payments directly to the IRS that are required to be deposited, unless you have reasonable cause for doing so. To enroll in EFTPS, call 800-555-4477, or to enroll online, visit eftps.gov. If you do not want to use EFTPS, you can arrange for your tax professional, financial

institution, payroll service, or other trusted third party to make deposits on your behalf.

KEY POINT New churches in their first year of existence are treated as a monthly depositor unless the \$100,000 Next-Day-Deposit Rule applies. Additionally, new churches, indicating they would be making payroll tax deposits, are pre-enrolled in EFTPS and should have received a letter with their four-digit EFTPS PIN.

Step 9. All employers subject to income tax withholding, Social Security and Medicare taxes, or both, must file Form 941 quarterly.

Form 941 reports the number of employees and amount of Social Security and Medicare taxes and withheld income taxes that are payable. Form 941 is due on the last day of the month following the end of each calendar quarter.

Quarter	Ending	Due date of Form 941
1st (Jan.–Mar.)	March 31	April 30
2nd (April–June)	June 30	July 31
3rd (July–Sept.)	September 30	October 31
4th (Oct.–Dec.)	December 31	January 31

If any due date for filing shown above falls on a Saturday, Sunday, or legal holiday, you may file your return on the next business day.

Form 941 may be filed electronically through a tax professional or payroll provider, or by utilizing an IRS-approved software. For more information, visit the IRS website at <https://www.irs.gov/businesses/e-file-employment-tax-forms>.

KEY POINT Form 944 replaces Form 941 for eligible small employers. The purpose of Form 944 is to reduce the burden on the smallest employers by allowing them to file their employment tax returns annually, and in most cases pay the employment tax due with their return. Generally, you are eligible to file this form only if your payroll taxes for the year are \$1,000 or less. Do not file Form 944 unless the IRS has sent your church a notice telling you to file it. If a church believes it is eligible for this filing, it may contact the IRS and request a change in its filing requirements.

Step 10. Prepare a Form W-2 for every employee, including ministers employed by the church.

A church reports each employee's taxable income and withheld income taxes as well as Social Security and Medicare taxes on this form. A church should furnish copies B, C, and 2 of the 2023 Form W-2 to each employee by January 31, 2024. File Copy A with the Social Security Administration by January 31, 2024. If filing paper copies, send all Copies A with Form W-3, Transmittal of Wage and Tax Statements. If a church files 10 or more forms of any combination of W-2 or 1099, it must submit the forms electronically beginning with the 2023 filings due January 31, 2024. Churches new to the electronic filing requirements may be able to utilize the Social Security Administration's Business Services Online option to electronically file the forms.

KEY POINT Be sure to add cents to all amounts. Make all dollar entries without a dollar sign and comma, but with a decimal point and cents. For example, \$1,000 should read "1000.00." Government scanning equipment assumes that the last two figures of any amount are cents. If you report \$40,000 of income as "40000," the scanning equipment would interpret this as 400.00 (\$400)!

You may need some assistance with some of the boxes on the Form W-2. Consider the following:

Box a. Report the employee's Social Security number. If you do not provide the correct employee's name and Social Security number on Form W-2, you may owe a penalty unless you have reasonable cause.

Insert "applied for" if an employee does not have a Social Security number but has applied for one. If you are filing the forms electronically, you will need to leave the box blank as most systems will not accept "applied for." Additionally, most systems may not allow the box to be blank, so steps should be taken to avoid this situation.

Box b. Insert your church's federal employer identification number (EIN). This is a nine-digit number that is assigned by the IRS. (See previous section on obtaining an EIN, if you do not have one.) Some churches have more than one EIN (for example, some churches that operate a private school have a number for both the church and the school). Be sure that the EIN listed on an employee's Form W-2 is the one associated with the employee's actual employer.

KEY POINT A church should not have more than one employer identification number. If your church has more than one, then steps should be taken to bring all payroll reporting under one number and discontinue use of the second number.

Box c. Enter your church's name, address, and ZIP Code. This should be the same address reported on your Form 941.

Box d. You may use this box to identify individual W-2 forms. You are not required to use this box.

Box e. Enter the employee's name.

Box f. Enter the employee's address and ZIP Code.

Box 1. Report all federal taxable wages paid to workers who are treated as employees for federal income tax reporting purposes. This includes:

- Salary, bonuses, prizes, and awards.
- Taxable fringe benefits (including cost of employer-provided group term life insurance coverage that exceeds \$50,000).
- The value of the personal use of an employer-provided car.
- Most Christmas, birthday, anniversary, retirement, and other special occasion gifts (including "love" gifts) paid by the church.
- Business expense reimbursements paid under a nonaccountable plan (one that does not require substantiation of business expenses within a reasonable time or does not require excess reimbursements to be returned to the church or reimburses expenses out of salary reductions). Also note that such reimbursements are subject to income tax and Social Security withholding if paid to nonminister employees.
- Generally, payments made under an accountable plan are excluded from the employee's gross income and are not reported on Form W-2. However, if you pay a per diem or mileage allowance and the amount paid for substantiated miles or days traveled exceeds the amount treated as substantiated under IRS rules, you must report as wages on Form W-2 the amount in excess of the amount treated as

substantiated. The excess amount is subject to income tax withholding and Social Security and Medicare taxes (or railroad retirement taxes, if applicable). Report the amount treated as substantiated (that is, the nontaxable portion) in box 12 using code L.

- Moving expenses and expense reimbursements (except for reimbursements of the travel expenses of members of the US armed forces on active duty).
- Any portion of a minister's self-employment taxes paid by the church.
- Amounts includible in income under a nonqualified deferred compensation plan because of section 409A.
- Designated Roth contributions made under a section 403(b) salary reduction agreement.
- Church reimbursements of a spouse's travel expenses incurred while accompanying a minister on a business trip represent income to the minister unless the spouse's presence serves a legitimate and necessary business purpose and the spouse's expenses are reimbursed by the church under an accountable plan.
- Churches that make a "below-market loan" to a minister of at least \$10,000 create taxable income to the minister (some exceptions apply). A below-market loan is a loan on which no interest is charged, or on which interest is charged at a rate below the applicable federal rate.
- Churches that forgive a minister's debt to the church create taxable income to the minister.
- Severance pay.
- Payment of a minister's personal expenses by the church.
- Employee contributions to a health savings account (HSA) unless contributed through a Section 125 cafeteria plan.
- Employer contributions to an HSA if includable in the income of the employee.
- Employee contributions towards group health insurance premiums unless they are contributed through a Section 125 cafeteria plan.

For ministers who report their income taxes as employees, do not report in box 1 the annual fair rental value of a parsonage or any portion of a minister's compensation that was designated (in advance) as a housing allowance by the church. Also, some

contributions made to certain retirement plans out of an employee's wages are not reported. If the nontaxable portion of a housing allowance (the lessor of actual expenses or the FRV plus utilities) is less than the church-designated allowance, it is the minister's responsibility to report the excess housing allowance as additional income on line 1 of his or her Form 1040 (if an employee) or on Schedule C (if self-employed, however, such a status would be rare).

CAUTION Taxable fringe benefits not reported as income in box 1 may constitute an automatic excess benefit transaction exposing the recipient and members of the church board to intermediate sanctions in the form of substantial excise taxes.

KEY POINT Churches should not include in box 1 the annual fair rental value of a parsonage or a housing allowance provided to a minister as compensation for ministerial services.

Box 2. List all federal income taxes that you withheld from the employee's wages. The amounts reported in this box (for all employees) should correspond to the amount of withheld income taxes reported on your four 941 forms.

Box 3. Report an employee's wages subject to the "Social Security" component (the 6.2 percent rate for 2023) of FICA taxes. Box 3 should not list more than the maximum wage base for the "Social Security" component of FICA taxes (\$160,200 for 2023, \$168,600 for 2024). This box usually will be the same as Box 1, but not always. For example, certain retirement contributions are included in Box 3 that are not included in Box 1. To illustrate, contributions to a 403(b) plan by salary reduction agreement may be excludable from income and not reportable in Box 1, but they are subject to FICA taxes and accordingly they represent Social Security and Medicare wages for nonminister employees.

KEY POINT Remember that ministers (including those who report their income taxes as employees) are self-employed for Social Security with respect to their ministerial services, and so they pay self-employment taxes rather than the employee's share of Social Security and Medicare taxes. There should never be any amounts in Boxes 3, 4, 5 or 6 on a minister's Form W-2.

Churches that filed a timely Form 8274 exempting themselves from the employer's share of FICA taxes do not report the wages of nonminister employees in this box since such employees are considered self-employed for Social Security purposes.

Box 4. Report the "Social Security" component (6.2 percent) of Social Security and Medicare taxes that you withheld from a nonminister employee's wages. This tax is

imposed on all wages up to a maximum of \$160,200 for 2023 and \$168,600 for 2024. Do not report the church's portion (the "employer's share") of Social Security and Medicare taxes. Ministers who report their income taxes as employees are still treated as self-employed for Social Security with respect to compensation from the performance of ministerial services. For ministers, this box should be left blank.

Box 5. Report a nonminister employee's current and deferred (if any) wages subject to the Medicare component (1.45 percent) of FICA taxes. This will be an employee's entire wages regardless of amount. There is no ceiling. For persons earning less than the annual maximum earnings subject to the 6.2 percent Social Security tax of \$160,200 for 2023 (\$168,600 for 2024) Box 3 and Box 5 both should show the same amount. If you pay more than \$160,200 to a nonminister employee in 2023, Box 3 should show \$160,200 and Box 5 should show the full amount of wages paid.

Box 6. Report the Medicare component of FICA taxes that you withheld from the nonminister employee's wages. This tax is imposed on all wages, current and deferred (if any), regardless of amount. The box will also include the additional Medicare tax withheld on wages greater than \$200,000 and previously discussed. For ministers, this box should be left blank.

Box 10. Show the total dependent care benefits under a dependent care assistance program (section 129) paid or incurred by you for your employee. Include the fair market value of employer-provided daycare facilities and amounts paid or incurred for dependent care assistance through a section 125 cafeteria plan. Report all amounts paid or incurred including those in excess of the \$5,000 exclusion. Include any amounts over \$5,000 in Boxes 1, 3, and 5. For more information, see *IRS Publication 15-B*.

Box 11. The purpose of box 11 is for the Social Security Administration (SSA) to determine if any part of the amount reported in Box 1 or Boxes 3 or 5 was earned in a prior year. The SSA uses this information to verify that they have properly applied the Social Security earnings test and paid the correct amount of benefits. Report distributions to an employee from a nonqualified plan in Box 11. Also report these distributions in Box 1. Under nonqualified plans, deferred amounts that are no longer subject to a substantial risk of forfeiture are taxable even if not distributed. Report these amounts in Boxes 3 (up to the Social Security wage base) and 5. Do not report in Box 11 deferrals included in Boxes 3 or 5 and deferrals for current year services (such as those with no risk of forfeiture).

If you made distributions and also are reporting any deferrals in Boxes 3 or 5, do not complete Box 11. See *IRS Publication 957*.

Unlike qualified plans, nonqualified plans do not meet the qualification requirements for tax-favored status. Nonqualified plans include those arrangements traditionally viewed as

deferring the receipt of current compensation, such as a rabbi trust. Welfare benefit plans and plans providing termination pay, or early retirement pay, are not generally nonqualified plans.

KEY POINT Nonqualified retirement plans are subject to many difficult technical rules and substantial penalties for compliance failures. Additional information is available in *IRS Publication 15* and *IRS Publication 957*, but qualified professional guidance is also recommended.

Box 12. Insert the appropriate code and dollar amount in this box. Insert the code letter followed by a space and then insert the dollar amount on the same line within the box. Do not enter more than four codes in this box. If more are needed, use another Form W-2. Use capital letters for the codes and remember not to use dollar signs or commas. For example, to report a \$3,000 contribution to a section 403(b) tax-sheltered annuity, you would report “E 3000.00” in this box. The codes are as follows:

A—This will not apply to church employees.

B—This will not apply to church employees.

C—You (the church) provided your employee with more than \$50,000 of group term life insurance. Report the cost of coverage in excess of \$50,000. It should also be included in Box 1 (and in Boxes 3 and 5 for nonminister employees).

D—Generally not applicable to churches, however, some churches have adopted 401(k) plans and would use this box to report elective deferrals into those plans.

E—The church made contributions to a 403(b) plan pursuant to a “salary reduction agreement” on behalf of the employee. Report the amount of the contributions. While this amount ordinarily is not reported in Box 1, it is included in Boxes 3 and 5 for nonminister employees since it is subject to Social Security and Medicare taxes with respect to such workers.

F—Generally not applicable to churches.

G—Generally not applicable to churches.

H—Generally not applicable to churches.

J—You (the church) are reporting sick pay. Show the amount of any sick pay that is not includable in the employee’s income because he or she contributed to the sick pay plan.

K—Generally not applicable to churches.

L—You (the church) reimbursed the employee for employee business expenses using the standard mileage rate or the per diem rates, and the amount you reimbursed exceeds the amounts allowed under these methods. Enter code “L” in Box 12, followed by the amount of the reimbursements that equal the allowable standard mileage or per diem rates. Any excess should be included in Box 1. For nonminister employees, report the excess in Boxes 3 (up to the Social Security wage base) and 5 as well. Do not include any per diem or mileage allowance reimbursements for employee business expenses in Box 12 if the total reimbursements are less than or equal to the amount deemed substantiated under the IRS-approved standard mileage rate or per diem rates.

M, N—Generally not applicable to churches.

P – Not applicable to churches.

Q—Generally not applicable to churches.

R—Report employer contributions to a medical savings account on behalf of the employee. Any portion that is not excluded from the employee’s income also should be included in Box 1.

S—Report employee salary reduction contributions to a SIMPLE individual retirement account. However, if the SIMPLE account is part of a 401(k) plan, use code D.

T—Report amounts paid (or expenses incurred) by an employer for qualified adoption expenses furnished to an employee under an adoption assistance program that are not included in Box 1.

V—Generally not applicable to churches.

W—Report employer contributions to a health savings account (HSA). Include amounts the employee elected to contribute using a cafeteria plan.

Y—It is no longer necessary to report deferrals under a section 409A nonqualified deferred compensation plan in Box 12 using code Y.

Z—Report all amounts deferred (including earnings on deferrals) under a nonqualified deferred compensation (NQDC) plan that are included in income under section 409A of the tax code because the NQDC fails to satisfy the requirements of section 409A. Do not include amounts properly reported on Forms 1099-NEC or W-2 for a prior year. Also, do not include amounts considered to be subject to a substantial risk of forfeiture for purposes of section 409A. The amount reported in Box 12 using code Z is also reported in Box 1.

AA—Generally not applicable to churches unless a church operates a 401(k) plan.

BB—Report designated Roth contributions under a section 403(b) salary reduction agreement. Do not use this code to report elective deferrals under code E.

DD—The Affordable Care Act requires employers to report the cost of coverage under an employer-sponsored group health plan. IRS Notice 2011-28 provided relief for smaller employers filing fewer than 250 W-2 forms by making the reporting requirement optional for them until further guidance is issued by the IRS. The reporting under this provision is for information only; the amounts reported are not included in taxable wages and are not subject to new taxes.

EE—Generally not applicable to churches.

FF-- Use this code to report the total amount of permitted benefits under a QSEHRA. The maximum reimbursement for an eligible employee under a QSEHRA for 2023 is \$5,850 (\$11,800 if it also provides reimbursements for family members). Report the amounts of payments and reimbursements the employee is entitled to receive under the QSEHRA for the calendar year, not the amount the employee actually receives. For example, a QSEHRA provides a permitted benefit of \$3,000. If the employee receives reimbursements of \$2,000, report a permitted benefit of \$3,000 in Box 12 with code FF.

Box 13. Check the appropriate box.

Statutory employee. Churches rarely if ever have statutory employees. These include certain drivers, insurance agents, and salespersons.

Retirement plan. Mark this checkbox if the employee was an active participant (for any part of the year) in any of the following: (1) a qualified pension, profit-sharing, or stock bonus plan described in section 401(a) (including a 401(k) plan); (2) an annuity contract or custodial account described in section 403(b); (3) a simplified employee pension (SEP) plan; or (4) a SIMPLE retirement account.

Third party sick pay. Churches generally will not check this box.

Box 14. This box is optional. Use it to provide information to an employee. Some churches report a church-designated housing allowance in this box. The IRS uses Box 14 for this purpose in a comprehensive minister tax example in the current edition of its *IRS Publication 517*, but this is not a requirement.

TAX TIP The IRS has provided the following suggestions to reduce the discrepancies between amounts reported on Forms W-2, W-3, and Form 941: First, be sure the amounts on Form W-3 are the total amounts from

Forms W-2. Second, reconcile Form W-3 with your four quarterly Forms 941 by comparing amounts reported for: (1) Income tax withholding (Box 2). (2) Social Security and Medicare wages (Boxes 3, 5, and 7). (3) Social Security and Medicare taxes (Boxes 4 and 6). Amounts reported on Forms W-2, W-3, and 941 may not match for valid reasons. If they do not match, you should determine that the reasons are valid. The Social Security Administration will issue an inquiry notice when these amounts do not match.

Step 11. Prepare a Form 1099-NEC for every self-employed person receiving nonemployee compensation of \$600 or more.

By January 31, 2024, churches must furnish Copy B of Form 1099-NEC Nonemployee Compensation to any self-employed person to whom the church paid nonemployee compensation of \$600 or more in 2023. This form (rather than a W-2) should be provided to clergy who report their federal income taxes as self-employed, since the Tax Court and the IRS have both ruled that a worker who receives a W-2 rather than a 1099-NEC is presumed to be an employee rather than self-employed. The reverse is also true. When a worker receives a 1099-NEC, rather than a W-2, the worker is presumed not to be an employee and is ineligible for favorable tax treatment of employer provided benefits. For example, a minister reported on a 1099-NEC may not exclude from income the value of church-provided health insurance. Other persons to whom churches may be required to issue a 1099-NEC include evangelists, guest speakers, and contractors.

TAX TIP Churches should not only look at payments to individuals for 1099-NEC reporting. Payments to limited liability companies (LLC) and partnerships are also subject to reporting on the Form 1099-NEC. Payments to attorneys of \$600 or more are reportable even if the law firm is incorporated. These payees are often overlooked when preparing Form 1099-NEC.

Whether filing paper forms or electronically, the forms are due to the IRS by January 31, 2024. Churches must send the actual red copies of Copy A of Forms 1099-NEC, along with Form 1096 if submitting paper forms. Effective for the filing of 2023 reporting forms, the forms must be filed electronically if the church is filing 10 or more reporting forms of any type, including forms W-2, 1099-NEC, and 1099-MISC.

TAX TIP The IRS’s Information Return Intake System (IRIS) is available for the 2023 tax year filings. It allows employers to file electronically without special software. Filing electronically is a more secure option than submitting paper returns to the IRS and is required for the majority of employers for the 2023 tax year. IRIS is a free system, but employers must apply to be able to use it.

To illustrate, if a guest speaker visited a church in 2023 and received compensation from the church in an amount of \$600 or more (net of any housing allowance or travel expenses reimbursed under an accountable plan) then the church must issue the person Copy B of Form 1099-NEC by January 31, 2024.

Exceptions apply. For example, a church need not issue a 1099-NEC to a corporation (other than to attorneys that are incorporated), or to a person who will be receiving a Form W-2 for services rendered to the church (all income should be reported on the Form W-2). Also, travel expense reimbursements paid to a self-employed person under an accountable reimbursement plan do not count toward the \$600 figure. Additionally, if supplies are purchased from a self-employed person, the amount does not count toward the \$600 filing limit if the amount for the supplies has been separately stated on the invoice from the contractor.

To complete Form 1099-NEC, the church will need to obtain the recipient’s name, address, and Social Security number. Churches should obtain this information at the time of the person’s visit since it often can be difficult to obtain the necessary information at a later date. IRS Form W-9 can be used to obtain this information. If a self-employed person who is paid \$600 or more during the course of a year by a church refuses to provide a Social Security number, then the church is required to withhold a percentage of the person’s total compensation as “backup withholding.” See “Step 3,” above. The backup withholding rate is 24 percent for 2024.

OTHER IMPORTANT REQUIREMENTS FOR CHURCHES

Reporting group term life insurance

You must include in the income of employees an imputed cost of employer-provided group term life insurance coverage (including death benefits under the Benefits Plan) that exceeds \$50,000. You must also include the imputed cost of all employer-provided group term life insurance on the life of a spouse or dependent if the coverage provided exceeds \$2,000. The imputed cost can be determined according to the following table.

Cost per \$1,000 of protection for 1-month period			
Age Brackets	Cost	Age Brackets	Cost
Under 25	5 cents	25 to 29	6 cents
30 to 34	8 cents	35 to 39	9 cents
40 to 44	10 cents	45 to 49	15 cents
50 to 54	23 cents	55 to 59	43 cents
60 to 64	66 cents	65 to 69	\$1.27
70 and above	\$2.06		

EXAMPLE Church A pays the premiums on a \$70,000 group term insurance policy on the life of Pastor B with B’s wife as beneficiary. Pastor B is 29 years old. Church A also pays the premium on a \$5,000 group term policy which covers Pastor B’s wife who is 30 years old. The church would have to report \$19.20 as the imputed cost of the insurance provided to Pastor B and his wife. This amount is computed as follows: (1) For Pastor B, the table shows the “cost” per month for each \$1,000 of group term life insurance in excess of \$50,000. To compute the cost for Pastor B, take 6 cents x 12 months = 72 cents x 20 (corresponding to \$20,000 of group term insurance in excess of \$50,000) = \$14.40. (2) In addition, the cost of the entire \$5,000 of insurance provided to Pastor B’s

wife would have to be computed. Take 8 cents x 12 months = 96 cents x 5 = \$4.80. Combine this amount with the cost of Pastor B's excess insurance to obtain the taxable amount of \$19.20. Church A should include this amount with wages in Box 1 of Form W-2. This amount should also be reported in Box 12 and labeled code C. Any includable amount is subject to income tax as well as Social Security and Medicare withholding for nonminister church employees.

New Form I-9

U.S. Citizenship and Immigration Services (USCIS) has issued a new version of Form I-9, Employment Eligibility Verification. Employers must use Form I-9 to verify the identity and employment authorization of their employees. USCIS made significant changes to the form and its instructions, including a checkbox to indicate that an employee's Form I-9 documentation was examined using a DHS-authorized alternative procedure. Identity documentation is required to be physically examined by the employer and not collected virtually unless using a DHS-authorized alternative procedure. To utilize an alternate procedure, the church must participate in E-Verify at [e-verify.gov](https://www.dhs.gov/e-verify).

Form I-9, Employment Eligibility Verification, with a version date of "(Rev. 08/01/23)" is available for use beginning August 1, 2023, and must be used. The prior version of Form I-9 (Rev. 10/21/19) was effective through October 31, 2023.

The new Form I-9 contains two sections and two supplements:

- Section 1 of the form collects, at the time of hire, identifying information about the employee (and preparer or translator if used), and requires the employee to attest to whether the employee is a U.S. citizen, noncitizen national, lawful permanent resident, or noncitizen authorized to work in the United States.
- Section 2 of the form collects, within three days of the employee's hire, identifying information about the employer and information regarding the employee's identity and employment authorization. The employee must present original documentation evidencing the employee's identity and employment authorization, which the employer must review.
- Supplement A, Preparer and/or Translator Certification for Section 1, is completed when employees have preparers or translators assist them in completing Section 1 of Form I-9.
- Supplement B, Reverification and Rehire (formerly Section 3), is primarily used to verify the continued employment authorization of the employee. This Supplement is completed prior to the date that the employee's employment

authorization or employment authorization documentation recorded in either Section 1 or Section 2 of the form expires, if applicable. This Supplement may also be used if the employee is rehired within three (3) years of the date of the initial completion of the form and to record a name change.

Employers must maintain Forms I-9 for as long as an individual works for the employer and for the required retention period after the termination of an individual's employment (either three (3) years after the date of hire or one (1) year after the date employment ended, whichever is later). Also, employers must make their employees' Forms I-9 available for inspection upon request by officers of the Department of Homeland Security (DHS), the Immigrant and Employee Rights Section (IER) in the US Department of Justice's Civil Rights Division, and the US Department of Labor. An employer's failure to ensure proper completion and retention of Forms I-9 may subject the employer to civil money penalties, and, in some cases, criminal penalties.

The newly updated Form I-9 contains several revisions to the form and its instructions to streamline these materials and reduce employer and employee burden associated with the form. USCIS made the following updates to the Form I-9:

- Reduced Sections 1 and 2 to a single-sided sheet. No previous fields were removed. Rather, multiple fields were merged into fewer fields when possible.
- Moved the Section 1 Preparer/Translator Certification area to a separate, standalone supplement (Supplement A) that employers can provide to employees when necessary. Employers may attach additional supplement sheets as needed.
- Moved the Section 3 Reverification and Rehire area to a separate, standalone supplement (Supplement B) that employers can print if or when rehire occurs or reverification is required. Employers may attach additional supplement sheets as necessary.
- Removed use of "alien authorized to work" in Section 1 and replaced it with "noncitizen authorized to work" as well as clarified the difference between "noncitizen national" and "noncitizen authorized to work."
- Ensured the form can be filled out on tablets and mobile devices.
- Removed certain features to ensure the form can be downloaded easily. This also removes the requirement to enter N/A in certain fields.
- Updated the notice at the top of the Form I-9 that explains how to avoid discrimination in the Form I-9 process.
- Revised the Lists of Acceptable Documents page to include some acceptable receipts as well as guidance and links to information on automatic extensions of employment authorization documentation.
- Added a box that eligible employers must check if the employee's Form I-9 documentation was examined under a DHS-authorized alternative procedure rather than via physical examination.

USCIS updated the following in the Form I-9 instructions:

- Reduced the length of instructions from 15 pages to 8 pages.
- Added definitions of key actors in the Form I-9 process.
- Streamlined the steps each actor takes to complete their section of the form.
- Added instructions for use of the new checkbox for employers who choose to examine Form I-9 documentation under an alternative procedure.

Beginning November 1, 2023, employers who fail to use Form I-9 (Rev. 08/01/23) may be subject to all applicable penalties under the Immigration and Nationality Act as enforced by U.S. Immigration and Customs Enforcement (ICE).

Employers do not need to complete the new Form I-9 (Rev. 08/01/23) for current employees who already have a properly completed Form I-9 on file, unless reverification applies after October 31, 2023. Unnecessary verification may violate the INA's anti-discrimination provision.

Employers may download the new Form I-9 (Rev. 08/01/23) from the USCIS website at <https://www.uscis.gov/i-9>. Employers can order the paper Form I-9 at www.uscis.gov/forms/forms-by-mail. For more information, the public can contact the USCIS Contact Center at 1-800-375-5283 or visit USCIS' I-9 Central web page at <https://www.uscis.gov/i-9central>.

Annual certification of racial nondiscrimination

Churches and other religious organizations that operate, supervise, or control a private school must file a certificate of racial nondiscrimination (Form 5578) each year with the IRS. The certificate is due by the 15th day of the 5th month following the end of the organization's fiscal year. This is May 15 of the following year for organizations that operate on a calendar-year basis. For example, Form 5578 for 2023 is due May 15, 2024.

A private school is defined as an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly conducted. The term includes primary, secondary, preparatory, or high schools; and it includes colleges and universities, whether operated as a separate legal entity or an activity of a church.

KEY POINT The term "school" also includes preschools, and this is what makes the reporting requirement relevant for many churches. As many as 25 percent of all churches operate a preschool program.

KEY POINT The instructions to Form 5578 state: “Every organization that claims exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code and that operates, supervises, or controls a private school(s) must file a certification of racial nondiscrimination. If an organization is required to file Form 990 . . . either as a separate return or as part of a group return, the certification must be made on Schedule E (Form 990 or 990-EZ) . . . rather than on this form.

While Form 5578 is easy to complete, it is an attestation that the school is compliant with federal nondiscrimination requirements operationally and meets publication requirements. A church official identifies the church and the school and certifies that the school has “satisfied the applicable requirements of sections 4.01 through 4.05 of Revenue Procedure 75-50.” This reference is to the following requirements:

1. The school has a statement in its charter, bylaws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy toward students.
2. The school has a statement of its racially nondiscriminatory policy toward students in all its brochures and catalogs dealing with student admissions, programs, and scholarships.
3. The school makes its racially nondiscriminatory policy known to all segments of the general community served by the school through the publication of a notice of its racially nondiscriminatory policy at least annually in: a newspaper of general circulation; through utilization of the broadcast media; or by displaying a notice of its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its taxable year (excluding temporary outages due to website maintenance or technical problems) in a manner reasonably expected to be noticed by visitors to the homepage.

However, such notice is not required if one or more exceptions apply. These include the following: (1) During the preceding three years, the enrollment consists of students at least 75 percent of whom are members of the sponsoring church or religious denomination, and the school publicizes its nondiscriminatory policy in religious periodicals distributed in the community. (2) The school draws its students from local communities and follows a racially nondiscriminatory policy toward students and demonstrates that it follows a racially nondiscriminatory policy by showing that it currently enrolls students of racial minority groups in meaningful numbers.

4. The school can demonstrate that all scholarships or other comparable benefits are offered on a racially nondiscriminatory basis.

Filing the certificate of racial nondiscrimination is one of the most commonly ignored federal reporting requirements. Churches that operate a private school (including a preschool), as well as independent schools, may obtain Form 5578 from the IRS website ([irs.gov](https://www.irs.gov)).

Charitable contribution substantiation rules

Several important rules apply to the substantiation of charitable contributions, including the following:

Cash contributions. All cash contributions, regardless of amount, must be substantiated by either a bank record (such as a cancelled check or clear notation on a bank statement) or a written communication from the church showing the name of the church, the date of the contribution, and the amount of the contribution. The recordkeeping requirements *may not be satisfied by maintaining other written records*. As noted below, additional substantiation requirements apply to contributions (of cash or property) of \$250 or more, and these must be satisfied as well.

Substantiation of contributions of \$250 or more. Donors will not be allowed a tax deduction for any individual cash (or property) contribution of \$250 or more unless they receive a written acknowledgment from the church containing the following information:

- Name of the church.
- Name of the donor (a Social Security number is not required).
- Date of the contribution.
- Amount of any cash contribution.
- For contributions of property (not including cash) valued by the donor at \$250 or more, the receipt must describe the property. No value should be stated.
- The receipt must contain one of the following: (1) a statement that no goods or services were provided by the church in return for the contribution; (2) a statement that goods or services that a church provided in return for the contribution consisted entirely of intangible religious benefits; or (3) a description and good faith estimate of the value of goods or services other than intangible religious benefits that the church provided in return for the contribution.
- The church may either provide separate acknowledgements for each single contribution of \$250 or more or one acknowledgement to substantiate several single contributions of \$250 or more. Separate contributions are not aggregated for

purposes of measuring the \$250 threshold unless they are related to a single transaction.

- The written acknowledgment must be received by the donor on or before the earlier of the following two dates: (1) the date the donor files a tax return claiming a deduction for the contribution, or (2) the due date (including extensions) for filing the return.

Gifts of property. Several additional rules apply to the substantiation of contributions of noncash property valued by the donor at \$500 or more. Donors who claim a deduction over \$500, but not over \$5,000, for a noncash charitable contribution must retain certain records and complete the front side (Section A, Part I, and Part II if applicable) of IRS Form 8283 and enclose the completed form with the Form 1040 on which the charitable contribution is claimed.

Special rules apply to donations of cars, boats, and planes valued by the donor at more than \$500. The church must provide the donor with a written acknowledgment containing certain information. These requirements may be fulfilled by filing a Form 1098-C with the IRS containing required information about the donation and providing a Copy B to the donor. See the instructions to Form 1098-C for more information. Failure to file Form 1098-C can result in penalties assessed to the church and a loss of the donation deduction by the donor.

KEY POINT Generally, you must furnish Copies B and C of this form to the donor no later than 30 days after the date of sale if Box 4a is checked or 30 days after the date of the contribution if Box 5a or 5b is checked. If Box 7 is checked, do not file Copy A with the IRS and do not furnish Copy B to the donor. You may furnish Copy C to the donor. The donor is required to obtain Copy C or a similar acknowledgment by the earlier of the due date (including extensions) of the donor's income tax return for the year of the contribution or the date that return is filed. Form 1098-C is not provided to the donor at the end of the tax year. All Forms 1098-C issued during a tax year are provided to the IRS with Form 1096 by February 28 of the next tax year.

For contributions of noncash property valued at more than \$5,000 (\$10,000 for privately held stock), a donor must obtain a qualified appraisal of the donated property from a qualified appraiser and complete a qualified appraisal summary (Section B of Form 8283) and have the summary signed by the appraiser and a church representative. The completed Form 8283 is then included with the Form 1040 on which the charitable contribution deduction is claimed. The appraisal must be enclosed for contributions of property (other than inventory and publicly traded securities) in excess of \$500,000.

KEY POINT The IRS considers contributions of cryptocurrency to be contributions of property. Therefore, any documentation requirements applicable to noncash contributions are applicable to the donation of cryptocurrency.

Affordable Care Act reporting

The ACA imposes the most significant reporting obligations since the introduction of Form W-2 in 1943. Reporting obligations are similar to Form W-2 in that there are forms that must be issued to individual employees, and a “transmittal” form that is sent to the IRS along with copies of all the forms issued to employees. And, as with Form W-2, the IRS can assess penalties for failure to comply with the new reporting obligations.

Because of the similarities of the new reporting requirements to Form W-2, some are calling them the “Health Care W-2s.” Of course, the analogy is not perfect. The W-2 form reports compensation and tax withholding, while the new forms report health insurance information. The reporting requirements consist of the following forms:

- Providers of minimum essential coverage are required to file Forms 1094-B and 1095-B. These forms are used to report certain information to the IRS and to employees about individuals who are covered by minimum essential coverage. The legal filing requirement is to furnish the forms to employees by January 31, 2024. However, the IRS has provided for a permanent and automatic extension of time for providing the statements to individuals to March 1, 2024.

The forms must be filed with the IRS by February 28, 2024 (April 1, 2024, if filed electronically).

- Applicable Large Employers, generally employers with 50 or more full-time employees (including full-time equivalent employees) in the previous year, must file one or more Forms 1094-C (including a Form 1094-C designated as the Authoritative Transmittal, whether or not filing multiple Forms 1094-C), and must file a Form 1095-C for each employee who was a full-time employee of the employer for any month of the calendar year. Generally, the employer is required to furnish a copy of the Form 1095-C (or a substitute form) to the employee. These forms must be furnished to employees by January 31, 2024 (also under the automatic extension previously discussed to March 1, 2024), and filed by February 28, 2024 (April 1, 2024, if filed electronically). The information reported on Forms 1094-C and 1095-C is used to determine whether an employer owes a payment under the employer-shared responsibility provisions of the ACA (the “employer mandate” or “play or pay” provisions).

See the instructions to these forms on the IRS website ([irs.gov](https://www.irs.gov)) for more information.

KEY POINT Churches with fewer than 50 full-time employees, and an insured group health plan, generally have no reporting obligation. They are not required to file Forms 1094-C and 1095-C since they have fewer than 50 employees, and their group plan insurer files the Forms 1094-B and 1095-B.

KEY POINT While the above information and the applicable instructions to the forms still refer to the ability to physically “paper file” the forms, these forms have also been included in the mandatory e-filing requirement that is applicable if the church files 10 or more of a combination of any type of reporting form.

HELPFUL NUMBERS AND RESOURCES

To request IRS forms: 800-TAX-FORM or 800-829-3676

IRS home page [irs.gov](https://www.irs.gov)

[ChurchLawAndTax.com](https://www.churchlawandtax.com)—A Christianity Today website featuring Richard Hammar and a host of other professionals who provide information on church law, tax, finance, and risk management.

[ChurchLawAndTaxStore.com](https://www.churchlawandtaxstore.com)—Christianity Today’s online store with church management resources to keep your church safe, legal, and financially sound.

[*Church & Clergy Tax Guide*](#)—Richard Hammar’s comprehensive tax guide published annually by Christianity Today.

[*Church Compensation, Second Edition \(with 2023 Updates\)*](#)—CPA Elaine Sommerville guides you through every aspect of employment compensation in easy-to-understand language.