

Annual Church and Ministry Seminar
October 24, 2023
Agenda

- 7:30 - 8:30 Registration and vendor booths
- 8:30 to 9:30 Legal Update from The Church & Ministry Law Group at
Schmitt Schneck Even & Williams, P.C.
 Robert Erven Brown, Esq.
 Michael F. Edgell, Esq.
 Jonathan A. Ruybalid, Esq.
- 9:30 to 10:20 Session by Monica J. Stern, CPA/Julie Froke, EA
- 10:20 to 10:30 Break
- 10:30 to 12:15 Session by Monica J. Stern, CPA/ Barbara L. Starley, CPA
- 12:15 to 12:30 Open Questions and Answers

Live Stream Information

Download 2023 Seminar packets at www.mjsterncpa.com in advance. There are two - one from Robert Erven Brown and one from Monica J. Stern, CPA.

To view the Live Stream go to www.lacasalive.com No password is needed.

To ask questions, send an email to info@mjsterncpa.com or use the live stream chat. We will try to get as many questions as possible. Please indicate if the question is for Bob or for Monica if not obvious.

Monica J. Stern, CPA, PLLC
2023 Annual Church and Ministry Seminar

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Monica J. Stern, CPA, PLLC
2023 Annual Church and Ministry Seminar

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Special Thanks

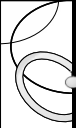
La Casa de Cristo Lutheran Church

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Ministry Seminar

Thank-you to our sponsors – please visit their
tables


1



2023 CHURCH AND MINISTRY SEMINAR
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Monica J. Stern, CPA, PLLC

2023 Employee Retention Tax Credit Update

2




Employee Retention Tax Credit

On September 14, 2023, IRS put a moratorium on processing ERTC claims.

"Amid rising concerns about a flood of improper Employee Retention Credit claims, the Internal Revenue Service today announced an immediate moratorium through at least the end of the year on processing new claims for the pandemic-era relief program to protect honest small business owners from scams."

"In the meantime, businesses should seek out a trusted tax professional who actually understands the complex ERC rules, not a promoter or marketer hustling to get a hefty contingency fee."

3




Employee Retention Tax Credit

This does not mean the program is cancelled.

You can still file, but processing will be delayed.

4




Employee Retention Tax Credit

This credit is huge if you qualify!

Do the testing even if you don't think you qualify.

But, don't apply if you are not truly eligible.

5




Employee Retention Tax Credit

Determining how you may qualify:

- Governmental orders (not advice) to suspend operations and/or
- Decreases in revenue in 2020 and 2021 based on each **quarter** as compared to 2019, same quarter.
- Supply chain orders – not likely for churches

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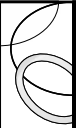


Employee Retention Tax Credit

Shut down orders in Arizona:

- Churches were never ordered to suspend operations, never ordered to socially distance or have mask mandates.
- Day care and preschools were never ordered to suspend operations.
- Stay-at-home orders for individuals do not count as a shut down order for the business.

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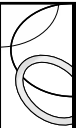


Employee Retention Tax Credit

Shut down orders in Arizona:

- Voluntary suspension of operations due to recommendations do not qualify.

8




Employee Retention Tax Credit

Supply chain disruptions generally won't qualify for churches and ministries.

If employees can telework and the business is able to continue in a similar manner, it will not qualify.

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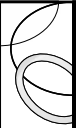


Employee Retention Tax Credit

Related organizations:

- For determining eligibility for the ERC, all related organizations must be aggregated for counting suspension of operations, number of employees and revenues.
- However, the credit is applied for based on which entity files the 941 forms.

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Employee Retention Tax Credit

Related organizations:

- Organizations with overlapping boards or requiring approval of a board by another board,
- Financially interdependent organizations,
- Organizations that own another organization.

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Employee Retention Tax Credit

Related organizations example:

- Church,
- Preschool, foundations etc.,
- LLC entities with any of the above as member

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Employee Retention Tax Credit

2020 Employee Retention Tax Credit:
 Eligible employers have either:

- fully or partially suspended operations due to governmental orders related to COVID-19
- experienced a significant decline (50%) in 2020 gross receipts during a calendar quarter compared to same quarter in 2019

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Employee Retention Tax Credit

2021 Employee Retention Tax Credit:
 Eligible employers have either:

- fully or partially suspended operations due to governmental orders related to COVID-19.
- experienced a significant decline (20%) in 2021 gross receipts during a calendar quarter compared to same quarter in 2019.

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Employee Retention Tax Credit

2021 Employee Retention Tax Credit:
 For Q1 2021, can elect to use Q4 of 2020 to calculate decline
 For Q2 2021, can elect to use Q1 2021
 For Q3 2021, can elect to use Q2 2021
 Even though using the prior quarter decline, credit is based on the current quarter wages.

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Eligible wages:

- If more than 100 full-time employees in 2019, the wages are for time the employee is not providing services.
- If 100 or fewer full-time employees in 2019, the wages are wages paid to any employee. Full-time is 30 hours.

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Eligible wages must be subject to Medicare taxes – clergy wages/housing do not count.
Cannot count the same wages for multiple tax credits or for PPP forgiveness

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Employee Retention Tax Credit

2020 Employee Retention Tax Credit:

- Applies to wages and health insurance paid 3/13/2020 to 12/31/2020
- Credit is 50% of wages up to \$10,000 (\$5,000 credit) per employee for entire period.
- Q1 and Q2 are both reported on Q2 941X.

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Employee Retention Tax Credit

2021 Employee Retention Tax Credit:

- Applies to wages and health insurance paid 1/1/2021 to 9/30/2021
- Credit is 70% of wages up to \$10,000 (\$7,000 credit) per employee per quarter.

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Gross receipts for tax-exempt organizations:

- Contributions and grants
- Dues and assessments
- Gross sales – no deductions
- Gross sales of investments – no deductions
- Dividends and interest

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Gross receipts for tax-exempt organizations:

- Any other gross receipts
- Determined on the basis of the method of accounting – cash or accrual
- Does not include investment market changes
- Does NOT include PPP forgiveness, but does include other grants

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Gross receipts for tax-exempt organizations:

- Must be consistently determined in each quarter.
- Bad bookkeeping results in wrong answers!
 Check to be sure you have the right amounts in the right quarter.

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Employee Retention Tax Credit

2020/2021 Employee Retention Tax Credit:
Gross receipts for tax-exempt organizations:

- Be careful – a donation of stock followed by the sale of stock will be counted twice!
- Restricted cash receipts are counted too.
- Income or transfers from inside the related group must be eliminated.

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Sample ERC Revenue Calculations
 Church with a Foundation
 Restricted gifts tracked on balance sheet
 Stock properly recorded as income when donated not when sold


	Q2 2020			Q2 2019	
	Church	Foundation	Total		Total
From profits/loss or income statement					
Contributions - cash	\$ 200,000	\$ 100,000	\$ 300,000	\$	\$ 390,000
PPP loan forgiven	\$ 50,000	\$ -	\$ 50,000	\$ -	\$ -
DES grant	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ -
Contributions - stock	\$ 50,000	\$ 100,000	\$ 150,000	\$ 200,000	\$ 200,000
Program fees	\$ 12,000	\$ -	\$ 12,000	\$ 4,000	\$ 4,000
Interest and dividends	\$ 1,500	\$ 4,000	\$ 5,500	\$ 5,000	\$ 5,000
Gain on sale of stock	\$ 2,000	\$ 4,000	\$ 6,000	\$ 3,000	\$ 3,000
Transfer from foundation	\$ 60,000	\$ -	\$ 60,000	\$ 60,000	\$ 60,000
Total	\$ 385,500	\$ 208,000	\$ 593,500	\$ 662,000	\$ 662,000
Add: Restricted income on balance sheet	\$ 20,000	\$ -	\$ 20,000	\$ -	\$ -
Add: Sale of stock	\$ 52,000	\$ 104,000	\$ 156,000	\$ 203,000	\$ 203,000
Less: Gain on sale of stock	\$ (2,000)	\$ (4,000)	\$ (6,000)	\$ (3,000)	\$ (3,000)
Less: Transfer from foundation	\$ (60,000)	\$ -	\$ (60,000)	\$ (60,000)	\$ (60,000)
Less: PPP loan forgiven	\$ (50,000)	\$ -	\$ (50,000)	\$ -	\$ -
	\$ 345,500	\$ 308,000	\$ 653,500	\$ 802,000	\$ 802,000
Decline in dollars				\$ (168,500)	
Decline in percent				-27%	

Does not qualify in 2020, but would if these were 2021 amounts.

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Sample ERC Wage Calculations						
	Wages	Housing	Medicare Wages	*Health insurance	Total before Limitation	Limited to \$10,000
Pastor	\$ 10,000	\$ 12,000	\$ -		\$ -	\$ -
Adm in assistant	\$ 10,000	\$ -	\$ 10,000	\$ 2,400	\$ 12,400	\$ 10,000
Worship leader	\$ 14,000	\$ -	\$ 13,000	\$ 3,400	\$ 16,400	\$ 10,000
Nursery worker	\$ 3,000	\$ -	\$ 3,000	\$ -	\$ 3,000	\$ 3,000
Youth leader	\$ 8,000	\$ -	\$ 8,000	\$ 2,400	\$ 10,400	\$ 10,000
	\$ 45,000	\$ 12,000				\$ 33,000
		\$ 57,000				
Credit in 2020 - maximum except for nursery worker						\$ 16,500
Credit in 2021 - this is per quarter amount for all eligible quarters						\$ 23,100
*Total bill for all health related benefits, not just employer share.						

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Employee Retention Tax Credit

Cautions:

- Many “ERC Mill” preparers are filing ERC claims incorrectly and charging 20-25% to do so. Where will they be when you are audited?
- One of the major promoters laid off 60% of their staff after the IRS announcement.

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Employee Retention Tax Credit

Cautions:

- Document your reasons for filing NOW. IRS can audit for three years from filing date – longer if fraud is suspected.
- Your profit and loss statement is generally not adequate to determine appropriate revenue calculations.

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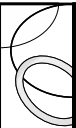


Employee Retention Tax Credit

Cautions:

- Don't rely on annual calculations. Your annual revenues may have increased, but you may have quarters with a decrease.
- You must make sure everything is in the correct quarter.

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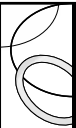


Employee Retention Tax Credit

Cautions:

- You must exclude wages and health insurance that you used for your PPP loan forgiveness, but only up to the amount forgiven. Partial quarters are eligible.
- You can allocate clergy wages fully to the PPP loan, preserving Medicare wages for the ERC.

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Employee Retention Tax Credit

Cautions:

- Get help with this, especially if you received a PPP loan during any qualifying quarter.
- Review all documents that were prepared for accuracy. You are responsible for this information.

30




Employee Retention Tax Credit

Cautions:

- If you received ERC refunds, but were not entitled to receive them, IRS will likely announce a process to return the money.
- If you used a pop-up preparer, request documentation now for the basis under which you applied for the refund to be sure it is valid.

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Employee Retention Tax Credit

Cautions:

Applications are signed under penalty of perjury. Your organization is liable, not the preparer. Signing a false application can be tax fraud.

Preparer penalties can and will apply, too.

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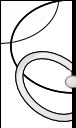


Employee Retention Tax Credit

Cautions:

- Last date to file is 4/30/2024 for Q1 2020.
- IRS could discontinue the program – there was some pressure to do so when they put the moratorium on the processing.
- If you are eligible, but haven't filed, do so now.

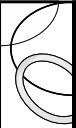
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E-Verify and Form I-9 Update

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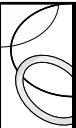
New I-9 Form

Beginning November 1, 2023, the new I-9 must be used.

New Form I-9

- Is required of all employees and employers
- Must be completed on the English version of the form. The Spanish version can be used as an interpretation tool.

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New I-9 Form

New Form I-9

- Reduced from 15 pages to 8.
- Allows for remote examination of documents.
- Is now a fillable document.
- Streamlined the form.
- Added enhanced directions.

I-9 forms must be completed in full and signed by both employee and employer.

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E-Verify

E-Verify is an **optional** Federal program to ensure employers are hiring employees legally authorized to work in the United States.

E-Verify is **required** of all Arizona employers who hired new employees since January 1, 2008.

21 other states require it as well.

37




E-Verify

Some churches are not aware of this requirement and are in violation of State law!

E-Verify uses information provided on Form I-9 to validate an employee's right to work.

38




E-Verify

Sign up for E-verify at www.e-verify.gov

Complete the training webinar.

Begin verifying new hires from that date forward.
OR
Use a service to complete E-verify for you.

39




E-Verify

Steps to use E-Verify:

- Employees provide a properly completed I-9 form by first date of paid work (Section 1).
- Employers must complete Section 2 by day three of work.
- Open a case after employee accepts employment and submit to E-Verify by third day of work.
- Enter information from the I-9.

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E-Verify

If you have not complied with state law, start now!

You cannot use E-Verify for existing employees. It is only used for new hires after you sign up.

If you miss the three day deadline, create the case and enter a reason for the delay.

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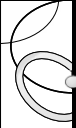


E-Verify

Errors we see:

- Incomplete I-9 forms. All must be filled in even if you have copies of documents.
- I-9 forms with nicknames.
- Unsigned I-9 forms.
- No evidence of E-Verify.
- Lack of knowledge - We're a church – we don't have to do all that!

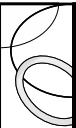
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IRS and Arizona Required Filings

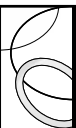
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True or False?

By default, the US government considers churches to be 501(c)(3) organizations automatically, simply by virtue of existing.

44




True or False?

True - By default, the US government considers churches to be 501(c)(3) organizations automatically, simply by virtue of existing.

See IRS publication 1828 for “proof” when asked.

45




What is a Church?

The IRS uses the term “church” as a generic word for a place of worship and includes Christian churches, mosques, synagogues and other houses of worship.

There are 14 criteria the IRS considers important in deciding whether an organization qualifies.

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Required Filings – Application for Tax-Exempt Status Form 1023


The following are not required to file Form 1023:

- Churches
- Integrated auxiliaries of Churches

Churches and integrated auxiliaries of churches are automatically exempt under 501(c)(3), but ministries and other nonprofits, including schools, are not.

Ministries and other nonprofits MUST file Form 1023 within 27 months of incorporating to be exempt as of date of formation.

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Required Filings – Application for Tax-Exempt Status Form 1023

Integrated auxiliary of a Church:

- Separate legal entity meeting 501(c)(3) criteria
- Affiliated with a church, and
- Receives support primarily from the church or its members, rather than from outsiders.

Churches can opt to file Form 1023.

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Required Filings – Application for Tax-Exempt Status Form 1023
Arizona recognizes tax-exempt status based on the Federal determination. No separate form.

FORM 1023 IS NOT DO-IT-YOURSELF.

Errors are more expensive to fix compared to paying someone to do it correctly the first time.


49



True or False?

An organization that fails to file the required information return (Form 990, Form 990-EZ, or Form 990-PF) or e-Postcard (Form 990-N) for five consecutive tax years will automatically lose its tax-exempt status.

50




True or False?

False - IRS penalties for late filing can be hefty, not the least of which is the loss of exempt status after failing to file for **three** consecutive years.

It can be devastating to receive penalty letters from the IRS telling the not-for-profit to pay thousands of dollars in penalties or revoking the organization's exemption.

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Required Filings – Annual Exempt Organization Return Form 990

The following are not required to file Form 990:

- Churches
- K-12 Schools supervised and controlled by a church (but must request permission on Form 1023)
- Integrated auxiliaries of a Church

All other ministries and nonprofits are required to file Form 990


52



True or False?

The designated responsible party of an organization is financially responsible for any taxes due to the IRS if the organization is unable or unwilling to pay.


53



True or False?

False – A responsible party for a nonprofit is essentially a contact person, no additional liability, but the IRS wants to ensure that they have one responsible person who they contact.

54




Required Filings - Form 8822-B

For 8822-B is required to be filed with the IRS when your name, address or responsible party changes.

If you have not filed one before, file now to update with the IRS.

Set up tracking so when the responsible party changes, you can file an updated form.


55



True or False?

Arizona Corporation Commission will administratively dissolve a corporation if it fails to submit an annual report or fails to pay filing fees.


56



True or False?

True - If a business has been administratively dissolved, that business may not conduct any business or affairs, except that which is necessary to wind up their business affairs.

57




Required Filings – Corporation Commission Reports - Annual and Updates
 Annual Arizona Corporation Commission reports must list all officers and directors, not just one or two!
www.azcc.gov

Your corporation must have at least a President and a Secretary, but you must list **all** officers and directors.

You must file updates to officers and directors as they occur throughout the year.


58



True or False?

Because the IRS considers churches to be tax-exempt, they do not need to file payroll tax reports.

59



Required Filings – Payroll Reports

False - Churches must file:


- IRS Forms 941 - quarterly, Forms W-2 and W-3 annually
- Arizona A1-QRT - quarterly and A-IR – annually

Ministries and other nonprofits must file:

- Same as above, plus
- Arizona UC-018 - quarterly if four or more employees

Neither file IRS Form 940 for Federal Unemployment.

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Required Filings – IRS Form 1099

Churches, ministries and other nonprofits must file:

- IRS Form 1099-NEC to report payments for services over \$600 per year to all entities not taxed as corporations.
- IRS Form 1099-Misc to report payments for non-service items such as prizes, rents, royalties, attorney fees and other income.

DO NOT USE 1099-MISC FOR PAYMENTS FOR SERVICES.

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Required Filings – IRS Form W-2G/945

Churches, ministries and other nonprofits must file:

- IRS Form W-2G to report certain gambling winnings from raffles and other gaming activities over \$600
- Winnings over \$5,000 where the winnings are at least 300 times the wager require withholding taxes and the filing of Form 945 to report the withholding

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Required Filings – IRS Form 1098-C

Churches, ministries and other nonprofits must file:

- IRS Form 1098-C to report vehicle donations for vehicles valued over \$500
- Must provide to the donor within 30 days from the sale of the vehicle and to the IRS in January with Form 1096


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True or False?

Beginning 1/1/2024, all 1099 forms must be efiled and will no longer be able to be paper filed.

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Required Filings – New eFile Requirements

True - Beginning 1/1/2024, every entity that files 10 or more forms must efile those forms.

- Aggregates all forms in count – W-2, 1099, W-2G etc.
- Example – Six W-2 forms and five 1099 forms = 11
- 1098-C can be still be paper filed

Effective for 2023 forms filed in 2024.
At this time, 941 forms are not included in the count.

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Required Filings – New eFile Requirements

How to comply:

- Use your current software
- Use a tax form filing service (Track1099.com is what we use)
- Use the new free IRS service “IRIS” to file 1099 forms
 - <https://www.irs.gov/filing/e-file-forms-1099-with-iris>
 - Register now
 - File well in advance of the deadlines

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Required Filings – New eFile Requirements

How to comply:

- Use the free Social Security Business Services Online “BSO” to file W-2 forms
 - <https://www.ssa.gov/employer/>
 - Register now
 - File well in advance of the deadlines

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Required Filings – New eFile Requirements

Government sites will require the use of ID.me credentials:

- <https://api.id.me/en/registration/new>
- Be prepared to submit documentation like a driver license or passport.
- ID.me is the same for the individual across both business and personal platforms. It does not register the business, only the individual user.

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Required Filings – New eFile Requirements

Prepare now – don’t wait until it is time to file to set up accounts and ID.me if needed.

Be sure you receive and retain verification of efiled forms.

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Filings not required

Beneficial owner reporting to FinCen effective 1/1/2024

- Required for all corporations, LLCs, partnerships or any other entity that files with an agency like a secretary of state (Corporation Commission in Arizona).
- It does NOT apply to tax-exempt organizations like churches, schools and ministries.

Don't let someone sell you a filing you don't need!

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DOL White Collar Wages – Where are we now?

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DOL White Collar Wages – Where are we now?

In 2019, the minimum salary for exempt employees, was increased from \$23,660 to \$35,568 per year effective 1/1/2020.

The original proposal was in the range of \$46,000 per year.

As of August 30, 2023, we have a new proposal. It was published in the Federal Register September 8, 2023.

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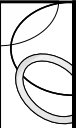
DOL White Collar Wages – Where are we now?
 The new proposal is projected to be \$55,068.

The actual amount could be higher as it is based on earnings date as of the date the final rule takes effect.

Could be \$60,000 or even higher.

Would automatically increase every three years.

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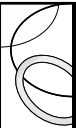


DOL White Collar Wages – Where are we now?
 Amount is based on the full time earnings of salaried workers:

- 35% percentile
- In the lowest wage region (the South)

The duties tests and salary based requirements do not change with this proposal.

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DOL White Collar Wages – Where are we now?
 The process:

- 60 day public comment period through 11/7/2023.
- DOL to review and publish comments.
- DOL to set final rule and publish effective date.

75

DOL White Collar Wages – Where are we now?
When is it effective?



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DOL White Collar Wages – Where are we now?
Earliest date would likely be 1/1/2024, but may be later.

Expect court challenges to amount and automatic increases.

DOL rules related to salary are part of the Fair Labor Standards Act (FLSA)

77


DOL White Collar Wages – Where are we now?

Three requirements for an employee to be exempt* from FLSA overtime requirements:

- Work is executive, administrative, professional, outside sales or computer employee
- Employee is paid the minimum salary
- Salary is fixed and paid each week without deductions, except as allowed.

*Exempt = overtime pay is not required for working over 40 hours in a work week.

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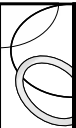


DOL White Collar Wages – Where are we now?
 Employees on a salary that is less than the minimum salary **CANNOT** be exempt, even if meeting the duties tests.

The minimum salary cannot be prorated for part-time employees.

Salary is all or nothing!

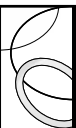
79



DOL White Collar Wages – Where are we now?
 Some employees are exempt from all or part of the FLSA:

- Clergy – courts, and a few DOL references indicate they are exempt from minimum wage and overtime.
- Teachers - exempt from minimum wage and overtime. Includes preschool teachers, but not day care or nursery workers.


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DOL White Collar Wages – Where are we now?
 Some employees are exempt from minimum salary requirements under current standards

- Employees who do not work in interstate commerce where employer is not a covered employer.

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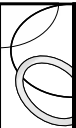


DOL White Collar Wages – Where are we now?

Covered employers – more than \$500,000 in “annual sales made or business done”. Commerce does not include contribution income, but does include sales for a fee if done for a business purpose.

Covered employees – employees who engage in interstate commerce for covered or noncovered employers.

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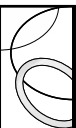


DOL White Collar Wages – Where are we now?

Examples of interstate commerce:

- Interstate phone calls or faxes
- Shipping or mailing to another state
- Ordering goods online from another state
- Use of credit card processing
- Emails to individuals in another state

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DOL White Collar Wages – Where are we now?

Conclusion:

Most church and ministry employers will not be covered enterprises under the FLSA.

Most employees of churches and ministries will be covered employees under the FLSA, unless they qualify under the ministerial exception.


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DOL White Collar Wages – Where are we now?
 Ministerial exemption under the FLSA:
 Non-clergy staff who fall under the courts’ definition of “ministers” may be exempt under the FLSA – see EEOC vs. Hosanna-Tabor

- The employee must have important religious duties as part of the job.
- No clear criteria – proceed with caution if dealing with non-clergy.

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DOL White Collar Wages – Where are we now?
 See DOL Fact Sheet 17A related to exempt employees.

Remember, clergy and teachers in a school are not employees for this purpose, nor are individuals with “essential religious duties” (ministerial exception doctrine).


For a good analysis see this 1/8/2021 document:
https://www.dol.gov/sites/dolgov/files/WHD/opinion-letters/FLSA/2021_01_08_02_FLSA.pdf

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DOL White Collar Wages – Where are we now?
 From this letter – “Whether the employees here actually qualify as ministers depends on their duties as employees, not upon the employer’s designation. There is no checklist one can use to determine whether the minister exception applies. Instead, a variety of factors may be important based on their relationship to an employee’s role in conveying the Church’s message and carrying out its mission”.

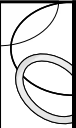
87



DOL White Collar Wages – Where are we now?

“The question must be answered on a case-by-case basis and requires considering all relevant circumstances surrounding each employee to determine whether each particular position implicates the fundamental purpose of the exception. Ultimately, ministerial status depends on the employee’s role in carrying out the employer’s mission and conveying the employer’s message.”

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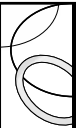


DOL White Collar Wages – Where are we now?

What to do now....

- Begin thinking about how you will address proposed changes.
- Review those who may qualify under the ministerial exception.
- Review your current payroll to determine if you are in compliance with today’s regulations.
- Fix any noncompliance.
- Stay alert for new developments.


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Volunteers and the FLSA – Fact Sheet 14A

“The FLSA recognizes the generosity and public benefits of volunteering and allows individuals to freely volunteer in many circumstances for charitable and public purposes. Individuals may volunteer time to religious, charitable, civic, humanitarian, or similar Non-Profit organizations as a public service and not be covered by the FLSA. **Individuals generally may not, however, volunteer in commercial activities run by a Non-Profit organization such as a gift shop.**”

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Volunteers and the FLSA – Fact Sheet 14A

Applies to all commercial activities:

- Gift shop
- Coffee shop
- Thrift store
- Any other “commercial” activity
- If activities generate gross revenue over \$500,000.

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2023 CHURCH AND MINISTRY SEMINAR

Presented by
Barbara L. Starley, CPA

Common Misconceptions about
Special Compensation Payments

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Typical Special Compensation Payments

- Love Offerings/Special Occasion Gifts
- Honorariums
- Non-Accountable Allowances
- Moving Expenses
- Sabbaticals

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Typical Special Compensation Payments

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Love Offerings/Special Occasion Gifts

TYPICAL SITUATIONS

- Pastor Appreciation Month
- Baby Blessings
- Hardship Support
- Retirement Gifts
- Funeral Fund

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Love Offerings/Special Occasion Gifts

COMMON MISCONCEPTIONS

- It's a "gift" – so it's tax free.
- We paid it out of the Benevolence Fund – so it's tax free.
- We didn't give the donor credit for a charitable contribution – so it's tax free.

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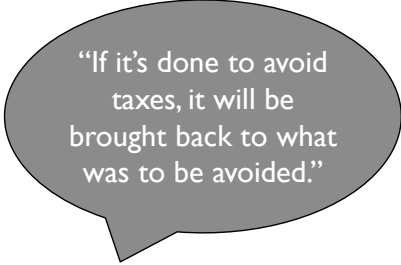
Love Offerings/Special Occasion Gifts

TAX CONSIDERATIONS

- All items that benefit an individual are taxable unless specifically excluded by the IRS. Motive determines tax treatment.
- Workers in the church can not receive non-taxable cash/cash equivalent benevolence benefits. An occasional food box may be okay.
- A church may not serve as a simple conduit of funds at the instruction of the donor.

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Fellow CPA/ASU Classmate

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Typical Special Compensation Payments

- Love Offerings/Special Occasion Gifts
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Honorariums

TYPICAL SITUATIONS

- Baptisms
- Confirmations
- Weddings
- Funerals
- Speaking Fees

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Honorariums

COMMON MISCONCEPTIONS

- It's a "gift – so it's tax free.
- This payment was made completely outside of the church – so it's a non-issue.
- It barely covers my costs to get to/from the location, so it's a "wash".

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Honorariums

REMINDER
All items that benefit an individual are taxable unless specifically excluded by the IRS. If motive is payment for services, it's taxable income.

TAX CONSIDERATIONS

- If paid by the employing church, it should be included in Box 1 of Pastor's W2.
- If payment was made directly to the Pastor from an outside organization or individual, the Pastor should report the income on Schedule C (regardless of having received a 1099-NEC).
- Best practice: report income and show directly-related expenses against that income on Schedule C (filed with individual 1040).

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Typical Special Compensation Payments

- Love Offerings/Special Occasion Gifts
- Honorariums
- Non-Accountable Allowances
- Moving Expenses
- Sabbaticals

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Non-Accountable Allowances

TYPICAL SITUATIONS

- Auto Allowance
- Cell Phone Allowance
- Resources & Supplies Allowance
- Travel Allowance/Unreturned Excess
- Pastor Discretionary Fund

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Non-Accountable Allowances

COMMON MISCONCEPTIONS

- The amount is “ordinary & necessary” and “reasonable” so it’s not taxable.
- The amount is “de minimis” so it’s not taxable.
- We know the individual spends at least this amount every month and we want to make it easy on all of us; no receipts required.
- We want the clergy to be able to anonymously bless people when the opportunity arises.

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Non-Accountable Allowances

TAX CONSEQUENCES

- All non-accountable allowances are taxable to the recipient; include in Box 1 of the individual's Form W2
- Any non-reimbursement "cash" payment to an employee is taxable regardless of amount.
- Best practice to avoid taxation is to require receipts for expenses within 60 days. Review as you would any other expenditure and reimburse to the penny.
- **Repeat:** All non-accountable allowances are taxable to the recipient.

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Typical Special Compensation Payments

- Love Offerings/Special Occasion Gifts
- Honorariums
- Non-Accountable Allowances
- Moving Expenses
- Sabbaticals

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Moving Expenses

COMMON MISCONCEPTIONS

- We wouldn't have this Pastor on staff if we hadn't paid for the move. It was a necessary business expense, so it's not taxable.
- It's a "reimbursement" of actual expenses, so it's not taxable.
- The individual could have deducted this amount on their personal taxes, but by "reimbursing" the costs, they get their money faster. We're just being nice.

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Moving Expenses

TAX CONSEQUENCES

- Paying for moving expenses is no different than giving the Pastor a cash “signing bonus”.
- This isn’t a church expense, it’s a personal expense. It’s taxable.
- Moving expenses are no longer tax deductible as an itemized deduction.

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Typical Special Compensation Payments

- Love Offerings/Special Occasion Gifts
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- Moving Expenses
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Sabbaticals

TYPICAL SITUATIONS

- Extended leave of absence with pay.
- Travel expenses paid by church.
- Family may or may not be included.

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Sabbaticals

COMMON MISCONCEPTIONS

- The Pastor works hard and needs a break, we want this to be a non-taxable “gift”.
- This is a time of refreshment, spiritual renewal, sermon preparation, strategic planning – it’s “ordinary & necessary.”
- We’re all about family. Strong relationships at home make the person better at work.

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Sabbaticals

PRO TIP!
Have a Sabbatical Policy in writing.

TAX CONSEQUENCES

- Employee can be paid for earned time off (vacation, holidays, PTO). Benefits, in most cases, need to be equitable and non-discriminatory.
- “Necessary”? = Must the person travel out of town to achieve these goals? Can the goals be achieved without travel?
- Family is important; but employee benefits do not pour over to family members.

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So what??

SIGNIFICANT CONSEQUENCES

- Employee may be subject to back taxes plus penalties & interest on unreported income.
- Intermediate sanctions against members of the governing board, including substantial excise taxes.
- Possible bad “press” for the organization.

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“Sloppy church accounting practices can be costly.”

2023 Church & Clergy Tax Guide
Richard R. Hammar JD, LL.M., CPA

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GoodStewardChurchAcademy.com
Barbara@barbarastarley.com
404.333.5294

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2023 CHURCH AND MINISTRY SEMINAR
Presented by
Monica J. Stern, CPA, PLLC

Accountable Reimbursement Plans

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Accountable Reimbursement Plans

Accountable reimbursement plans should be in place for every employer. Without one:

- Reimbursements of expenses are included as taxable compensation.
- Purchases made using employer's credit cards are included as taxable compensation.
- Excess compensation may result from expenses being included in taxable compensation.

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Accountable Reimbursement Plans

Accountable reimbursement plans must include the following rules:

- Business connection
- Adequate accounting
- Returning excess reimbursements or advances
- Reimbursements not made by reducing salaries
- In addition to a credit card use policy

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Accountable Reimbursement Plans

Accountable reimbursement plans are:

- in writing,
- adopted by the board, and
- enforced by management.

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Accountable Reimbursement Plans

Business connection:

- Reimbursed expenses “ordinary and necessary”
 - Moving expenses no longer allowed as of 1/1/2018
 - Personal or family expenses not allowed
 - Must not be excessive or lavish
- Incurred in providing services to the employer

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Accountable Reimbursement Plans

Adequate accounting for travel, meals, mileage and gifts:

- Can use per diem rates approved by IRS
- Expenses less than \$75, for other than lodging, do not require a receipt, but requires a log, diary, statement or similar record.
- Transportation for which a receipt is not readily available requires a log, diary, statement or similar record.
- Must include the business purpose, unless obvious.

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Accountable Reimbursement Plans

Adequate accounting:
Most church plans require documentation even if less than \$75.

“Woe to the world for temptations to sin! For it is necessary that temptations come, but woe to the one by whom the temptation comes!
Matthew 18:7

123




Accountable Reimbursement Plans

Reimbursements cannot be made to an employee if his salary is reduced by the reimbursement amount.

- Employers can reallocate budgets to include a budgeted line item and reduce the salary budget, but the budget is use-it-or-lose-it. The employee cannot get the unspent amount as compensation.

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Accountable Reimbursement Plans

Meals are reimbursable if:

- Traveling outside your metropolitan area and a meal is required on an overnight trip.
- Meeting with a client, customer or business associate and discussing specific business.
- The meal is not lavish or extravagant.
- Not part of a plan to take turns paying for meals.

Picking up a Starbucks coffee on the way to work is not a reimbursable meal!

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Accountable Reimbursement Plans

Accounting for reimbursable meals includes:

- Purpose – what was discussed
- Who was involved
- Date and location
- If church policy prohibits certain expenditure, such as alcohol, a detail listing of food and drink purchased.

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Accountable Reimbursement Plans

Mileage is reimbursable if:

- Driving for business, but not commuting to the business.
- Paid on a cents per mile basis, if not in excess of IRS rate of 65.5 cents per mile for 2023.

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Accountable Reimbursement Plans

An employer cannot pay for gas unless in a rental vehicle or employer-owned vehicle or unless the amount paid is less than the cents per mile method. Mileage must be accounted for.

An auto allowance or gas reimbursement, without accounting for mileage, is fully taxable.

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Accountable Reimbursement Plans

Credit card use is the biggest fraud in Churches:

- Have a policy for use and enforce it.
- Require receipts that detail the purchase.
- Remove cards from repeat offenders.
- Points belong to the church, not the employee.

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Accountable Reimbursement Plans

<https://www.xpastor.org/finance/financial-issues/employee-accountable-expense-reimbursement-policy/>

This is a sample policy adapted for a specific church. It lists items that will not be reimbursed.

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2023 CHURCH AND MINISTRY SEMINAR

Presented by
Monica J. Stern, CPA, PLLC

Whistleblower Policies

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Why is this Important?

The 2002 Sarbanes-Oxley Act has two provisions that apply to Churches:

- Whistleblower protection policies
- Document retention/destruction policies

Arizona also adopted similar, but more limited, rules for violation of Arizona law and public policy.

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Whistleblower Protections

Punishing a whistleblower in any way for “blowing a whistle” is a criminal offense,

- even if the reporting is unfounded.
- and only requires a reasonable belief or suspicion that violation of a Federal law has occurred.
- Arizona protects against termination only.

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Whistleblower Protections

What is punishing an employee?

- Termination
- Removing duties
- Demoting
- Hostility in the workplace regarding matter
- Generally, making life miserable for the employee

134



Whistleblower Protections

Violations of Federal law include violations of:

- IRS regulations.
- DOL regulations.
- Banking regulations, including financial reporting.
- Filing of false documents that violate Federal law.
- Any other Federal law.

Arizona is similar, but only covers Arizona law.

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Whistleblower Programs

Every church needs a formal program laid out in a policy. The policy must:

- Provide confidentiality and anonymity to the submitter.
- Enable anyone to make a report, even if not an employee.
- Enable all forms of wrongdoing or law violation.
- Give submitters multiple choices in how to report.
- Have checks and balances to ensure follow through.
- Get the information to someone who can and will act.
- Have plan for investigation/resolution – unrelated folks.

136

Whistleblower Programs

Practical considerations:

- Tiered layers of reporting depending on the matter.
Example – issue may be reported to a supervisor or to a board member depending on who is committing the violation.
- Designate a specific individual or group who can be relied upon to investigate the matter fairly and impartially.
Example – the Treasurer or President, but not if related to management.


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Whistleblower Programs

Practical considerations:

- Make sure the individual is well informed of the rights of the whistleblower under Federal and State law.
- Consider ease of reporting via phone, internet, text or letter.
- May consider using a hotline service for Whistleblower reporting – low cost and can report using internet or phone.

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Whistleblower Programs

Practical considerations:

- Create a culture of trust and accountability.
- Talk about it. Keep transparency front and center.
- Take every complaint seriously.

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Whistleblower Programs

Practical considerations:

- <https://www.churchlawandtax.com/manage-finances/internal-controls/whistleblower-policies-and-church-culture/>

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Monica J. Stern, CPA, PLLC

Potpourri

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Potpourri of Issues

Form 8822-B is required to be filed with the IRS when your name, address or responsible party changes. If you have not filed one before, file now to update with the IRS.

Arizona Corporation Commission reports – list all officers and directors, not just one! Your organization must have and list at least a President and a Secretary under state law, but you must list all.

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Potpourri of Issues

If you see something, say something:

- If involving fraud or misuse, contact a your supervisor or a board member.
- If something looks wrong on a financial statement, fix it. It will never get better on its own.

Noncompliance or misuse of Church assets needs to be corrected. This is God’s money, not anyone else’s.

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Potpourri of Issues

Penalty letters from IRS or Arizona DOR
If you receive a large penalty letter, do not write your own response.

Use a professional – they know the right language to use to get a penalty abated.

Saying the wrong thing accidentally can backfire, causing the penalty to be upheld.

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Potpourri of Issues

Know when to ask for help:

- Legal matters
- New or changes to existing tax law
- New programs – PPP, ERC, DES grants
- Employee benefits, including health plans and retirement – remember, it is taxable unless specifically excluded
- Bookkeeping issues

Do-it-yourself can cost your organization big dollars!

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Potpourri of Issues

Clergy opting out of Social Security:

- Doesn't affect payroll at the Church level
- If opted out for financial reasons, may be able to opt back in. Consult a professional.

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Potpourri of Issues

Maricopa County property taxes:

- Some churches got erroneous tax bills in September.
- Caused by an error by the county in a software conversion
- Please check ensure you don't have a bill: <https://treasurer.maricopa.gov/Parcel/ParcelSearch.aspx>
- Search by name for all parcels or by address or parcel number.

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Potpourri of Issues

Rentals of Church property:

- May be taxable for IRS and AZ if debt is on the property.
- May have property tax issues.
- Probably subject to Transaction Privilege Tax (sales tax)

Don't rent without consultation.

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Potpourri of Issues

Stay informed and come back next year!

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