

## Chapter 3: Lay Employees

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## **3.100: Classification**

### **3.105: Organists, Choir Directors, Nurses, Secretaries, Administrative Professionals, and Custodians**

Organists, choir directors, nurses, office support persons and custodians, whether full-time or part-time, are classified as lay employees for tax purposes.

### **3.110: Teachers, Parish Workers and Assistants**

Teachers, parish workers and assistants not identified on Synod's roster as "commissioned ministers" are to be treated as lay employees for tax purposes.

### **3.115: Vicars, Interns, and Other Students**

Teaching interns, DCE interns, deaconess interns and vicars (including delayed vicars and students in the Specific Ministry Pastor program assigned as vicars) are to be classified as lay employees.

Commissioned ministers (teachers, DCEs, DCOs, etc.) who are serving as vicars in anticipation of ordination retain their status as ministers of the Gospel for tax purposes.

## **3.200: Employee or Self-Employed**

The individuals referenced in 3.105 – 3.115 are treated as employees rather than self-employed. They are subject to income, social security and Medicare tax withholding. (For limited exceptions, contact your tax advisor.) Generally, when the means and methods by which one does one's work are determined by the employer, the recipient of the pay is an employee (see paragraphs 7.105, 7.110).

## **3.300: Income, Social Security and Medicare Taxes**

### **3.305: Withholding Taxes**

Compensation paid to lay employees is subject to income, social security and Medicare tax withholding. The amount of wages subject to taxes are subject to change annually. The employer can determine how much to withhold from the lay employee's compensation from the Form W-4 "Employees' Withholding Allowance Certificate" completed by the employee. Before 2020, the Form W-4 indicates the marital status and the number

of allowances. After 2019, the Form W-4 indicates the marital status and increases or decreases to standard withholding. The amount to be withheld is determined from the tax rate and tables included in IRS Publication 15-T, "Federal Income Tax Withholding Methods."

Church organizations are required to withhold the employee's portion of social security and Medicare tax from their compensation and pay a matching amount, which is the employer's share for all lay employees. An exception applies if the individual's annual wages do not exceed \$100. (For rates, see 7.343)

### **3.310: Reporting Wages**

The individual's wages should be reported on Form W-2 "Wage and Tax Statement" and provided to the employee no later than January 31, following the calendar year in which the compensation was paid. Salary should be included in Box 1 titled "Wages, tips, and other compensation" and in the boxes for social security wages and Medicare wages.

Taxable cost of group term life insurance coverage in excess of \$50,000 must also be included in Box 1, and in the boxes for social security wages and Medicare wages. The amount and Code C should be included in Box 12.

Moving expenses and personal use of an employer-provided auto are to be reported and treated as salary. This applies whether the payment for the moving expenses is made to the employee or directly to the moving company.

The amount withheld from the employee's wages plus any employer's contribution to a 403(b) tax-sheltered annuity (TSA) are not to be included in the box for wages, tips and other compensation. However, the employee's elective contributions should be included in the boxes for social security and Medicare wages and in Box 12 with the appropriate code letter. The employer's matching and non-elective contributions to a TSA are reported nowhere on Form W-2.

Items to include/exclude on Form W-2 in the box, "Wages, tips, other compensation"

#### **INCLUDE**

- Salary
- Auto allowance (no accounting)
- Group term life insurance premium for coverage in excess of \$50,000
- Moving expense payments
- Fair market value of housing provided (see exception 3.405)
- Tangible and intangible gifts (see 1.315)

#### **EXCLUDE**

- 403(b) tax-sheltered annuity payments
- Accountable expense reimbursements
- Cafeteria plan deductions

### **3.320:**

#### **Reporting Compensation**

A layperson should use the Form W-2 "Wage and Tax Statement" to report their compensation on Form 1040 "US Individual Tax Return." If the layperson receives honoraria, it should be reported as income on Schedule C or Schedule C-EZ "Profit or Loss from Business."

### **3.400:**

#### **Allowances and Other Compensation**

Congregations sometimes provide lay employees with allowances, like an auto allowance, or provide other forms of "compensation," such as interest-free loans, debt forgiveness or rent-free housing. For the lay employee, these forms of compensation are taxable income.

Another option for the congregation is to have an Accountable Plan Reimbursement Policy which is described in Section 6.110.

### **3.405:**

#### **Housing and Housing Allowances**

The lay worker enjoys no special income tax treatment or special status regarding housing or a housing allowance furnished as an employee of a church. A house or apartment provided to a lay worker is a taxable fringe benefit. Its fair market value constitutes wages; likewise, any utility payments made by the congregation directly to the utility company. These are treated as paid on any basis the congregation chooses but at least as often as once a year. The only circumstances under which the employer-provided housing may be excluded from taxable wage income is if the home is on church premises and it is provided solely for the convenience of the congregation and occupancy of such housing is a condition of the employee's service to the congregation.

### **3.410:**

#### **Educational Assistance Program**

If a congregation desires to pay for its employees' educational expenses, it should consider adopting an educational assistance program. This program is a separate written plan that provides educational assistance only to employees under rules set up by the employer that do not favor highly compensated employees. Up to \$5,250 of educational assistance paid to an employee under an educational assistance program may be excluded from the employees' taxable wages each year. A reasonable notification of the availability and terms of the program must be provided to all eligible employees.

Qualified educational expenses under an educational assistance program include cost of books, equipment, fees, supplies and post-secondary tuition, including graduate-level courses (masters and doctorate degrees). The program must not allow employees a choice to

receive cash instead of educational benefits. Educational reimbursements that exceed the \$5,250 limit or otherwise do not qualify for income exclusion must be added to the employee's wages and are subject to income, social security and Medicare tax withholding. IRS has indefinitely suspended the requirement to file Schedule F (Form 5500) previously imposed on employers maintaining an educational assistance program.

If the congregation doesn't adopt an educational assistance program, reimbursement of educational expenses that directly relate to the job in which the employee was hired to do may also be excluded from the worker's taxable wages. However, such reimbursements are restricted to those more "plain vanilla" types of educational courses and training that either maintain or improve the skills of an employee in his or her employment or are required by his or her employer.

### **3.415:**

#### **Gifts**

(See 1.315)

