



Safety Alert

Powerful practices that keep people safe

Safe Hiring Practices for Ministries

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Overview

Playing It Safe

What to know before you make your next hire.

by Marian V. Liautaud

*I know, my God, that you test the heart and are pleased with integrity.
1 Chronicles 29:17*

Hiring your next clergy or staff member may not seem like a dangerous venture. But in many ways bringing a new prospect onto your team exposes your ministry to significant legal risks. That's one of the reasons Richard Hammar, the leading authority on church and clergy law and tax issues, devoted an entire volume to the topic of employment law in his new four-volume edition of the classic *Pastor, Church & Law*. Employment law issues are the number one area of litigation for churches today.

This download focuses on some of the key aspects of hiring—how to create a written job description, the benefits of background checks, and the tax ramifications of your compensation package. These are some of the essential items to consider before you bring new clergy or staff on board. Gayla Postma, in her article “Keeping It Legal” from the BuildingChurchLeaders.com download “Church Staffing Essentials,” offers these additional tips for safe hiring:

Provide written job descriptions. A formal job description for every position prevents confusion down the road.

Have more than one person involved in hiring decisions. Even if the minister has the final hiring-and-firing power, it behooves him or her to involve other people.

Don't discriminate. When interviewing prospective employees, churches may not discriminate on the basis of race, color, sex, marital status, disabilities, or age. The only exception to these general standards, as mentioned above, is religion.

Check references. While it may seem obvious, Frieze says churches still need to be reminded to contact prior employers and references before hiring someone. Even church members should be screened.

It can be an arduous process to screen and select the next best candidate for your ministry. But finding the right match for important ministry positions is worth the time invested.

God's blessing on your ministry and the people you choose to serve with you!

Marian V. Liautaud

Editor, Your Church Resources





How To

Developing Clearly Defined Work

Specific position descriptions help get the most out of every ministry worker. *by John Throop*

Samuel explained to the people the regulations of the kingship. He wrote them down on a scroll and deposited it before the Lord. 1 Samuel 10:25

There's a lot of work to do in the ministry of the church. Unless the job is described and defined, people will not be able to work effectively. Conflict between individuals and groups can result, or workers may not be very happy in what they do. Often, churches do not have carefully developed job or position descriptions. Some church leaders think that ministries are self-defining. People know what to do or should do as the Holy Spirit guides them. Ministries also can become so busy that leaders can't think through the organizational map to know how to use their time and talent most effectively.

Understanding the Purpose of Church Job Descriptions

Like every workplace, a church has a number of jobs to be done. It is always better to develop position descriptions so that church leaders can:

Clarify expectations. A well-defined position can communicate what is needed in any job in the church, how a person in ministry will be evaluated (whether formally or informally), and how leaders will know the work is getting done.

Set boundaries. There's a difference between expecting a person to do a few things well (very efficient) and doing a little of everything (very inefficient). Job descriptions can set important boundaries between workers so that they are not taking over other people's work—or not giving the best effort to their own work.

Define lines of authority. People want to know to whom they are accountable, and why. Workers also will be less likely to send mixed signals about whose direction to follow, and at what point the supervisor takes charge.

Eliminate work and ministry conflicts. With clearer boundaries and lines of authority, the likelihood that people will move into conflict is greatly reduced. Workers will respect and honor their co-workers and understand how each of them must be part of a team to advance the Lord's work.

It is essential to write a description for each work function in a standardized format so that everyone can know the main elements of every job there is to do. These



descriptions need to be put into a church policy and procedure manual so that, if there are any disputes or misunderstandings, everyone has the same information to consult.

Key Components of Church Job Descriptions

There are seven key elements in a written job or position description.

Church or ministry description. A standardized statement needs to describe briefly the basic work of a church or ministry, including (but not limited to) type of church, theological foundations, institutional history, and numbers of people served. This description helps provide a context for the specific job.

Position title and definition. The name of the position should be clear and consistent with similar positions in the ministry. If there is greater responsibility in one position compared to another, use the word “senior” or “lead.” Also, identify job status—exempt (regular), non-exempt (hourly), full time, or part time. It also is important to stress, when necessary, that the job *must* be done primarily on site. Summarizing the position in one sentence helps define the position in the ministry.

Duties and qualifications. This section defines key duties and responsibilities. Often, the key responsibilities are listed in sequence of work, level of importance, and percentage of work time for key responsibilities. Avoid the stock phrase, “and all other duties as assigned,” which can be addressed in orientation to the work. Qualifications will include education, experience, knowledge of basic tools, and activities. Elements of the job often are listed by priority in bulleted order.

Lines of authority. To what position does this job occupant report? Use job titles (i.e., pastor, church business administrator), not specific names (i.e., Pastor Ed, Joe Jones, janitor).

Legal issues. The description states basic aptitude requirements, including reading and math capabilities, competence in communication, and when necessary, requirements for lifting physical objects (i.e., must lift boxes of no more than 30 pounds; must be able to clean stairwells). Some positions may require a financial or legal background check to be considered.

Other items. In a church or Christian ministry, it still is acceptable legally to require church membership or a defined faith commitment to qualify. Also, some workplaces or faith traditions have a dress code for work.

Signatures. The candidates will sign a statement indicating that they have read, understood and accepted the job description.

Unlike work in a larger secular corporation, a church’s official position description does not require a salary disclosure, unless the denomination has a compensation chart, especially for ordained ministers. A response to an initial question, or a section of the job interview, can spell out specific compensation issues.





Job Descriptions and Ministry Development

Job descriptions certainly provide clear expectations and boundaries for a church's total ministry. They also help church leaders and members understand the nature of and need for a job because:

A description has a **place in the church or ministry mission and strategy**. As positions are filled, the clergy and lay ministers understand how they advance the agenda of the Gospel and the church, not their own. Church members also can understand why certain jobs are essential for strategy even if the work is not important to them.

As a church or ministry grows or shrinks, or if there are other changes, then **jobs can be redefined as needed**. A ministry strategy can identify certain positions to be created, changed or eliminated. That way, leaders and members can support the many ways that the church's ministry is being carried out.

New ministries can be identified and new work roles can be developed. In this way, existing employees can be given the opportunity to advance, specialize or focus. Or, as an employee's family situation changes, they can cut back on their hours or their responsibilities.

A job description should be filed electronically and on paper as part of the personnel evaluation process. A person's job performance can be compared to stated responsibilities.

Job descriptions ultimately are beneficial because they will help people in ministry to do an effective job and help the whole church fulfill God's call to ministry.

Thought Provokers

- *In what ways does a written job description assist you in the hiring process?*
- *What additional benefits are there to providing a written job description for positions in your ministry?*





How To

Sample Job Description

Define Your Needs.

by *BuildingChurchLeaders.com*

Community Church

Job Title: Director of Small Group Ministry

Accountable To: Senior Pastor

Salaried or Hourly: Salaried/Exempt

Job Titles Supervised: Small Group Administrative Assistants, Small Group Pastors

Purpose: To serve Community Church by providing direction, administration, and oversight of small groups accessible to the church congregation and the community at large. Additionally, this person provides pastoral care, oversight and leadership development to the designated Zone Leaders, Section Leaders, Small Group Leaders and individuals involved in small groups.

Essential Responsibilities:

- Direct and oversee, with proven leadership abilities and team-building concept implementation, the Small Group Ministry team in planning and executing all the functions that are essential to a viable and dynamic small group ministry.
- Direct and oversee the Small Group Ministry team in planning and implementing new leader's orientation meetings, leadership training meetings, and all events associated with Rally Week.
- Strategize with the Small Group Ministry team in planning and implementing systems, policies and procedures for approving small group leaders, section leaders, and zone leaders.
- Create and execute, with the Small Group Ministry team, promotion campaigns for the Small Group Ministry both within the Community Church congregation as well as in the local community.
- Provide general and specific vision, direction, and outreach strategies for Small Group Ministry.
- Supervise the Assistant to the Director of Small Group Ministry, all of the Small Group Ministry pastors, and their Administrative Assistants by providing leadership and nurture.





- Implement the Senior Pastor's overall vision by providing pastoral care including visitations, prayer walks, attending Small Group meetings and functions, hospital and nursing home visitations, and community involvement, and by encouraging and overseeing all the Small Group Ministry pastors to do the same.
- Be prepared to perform the duties of an ordained or licensed Minister of Community Church including: water baptisms, communion, weddings, funerals, teaching, administration, and conducting regular worship services.
- Raise up leadership by identifying potential Small Group Leaders, Section Leaders and Zone Leaders. Implement leadership development through informal and formal means.
- Serve as a credible spokesperson for the Small Group Ministry to other churches, business and community leaders, understanding, practicing, and teaching the Biblical precepts behind small groups.
- Administer the work of the Small Group Ministry team, including Zone and Section Leaders, coaching leaders to provide appropriate pastoral mentoring to participants in small groups as well as for people who request it from the church.
- Lead and guide Guest Services, the assimilation of newcomers to the church, and a monthly guest luncheon.
- Plan and direct registration of water baptism candidates, as well as scheduling pastors to perform baptisms in services.
- Work in close association with the entire staff to build and maintain a strong team environment among our staff and complete the work necessary to fully serve and support the ministries and events of Community Church.
- Attend regular staff meetings, lead Small Group Ministry departmental meetings, and participate in additional meetings when requested to do so.
- Receive a performance evaluation given by the Senior Pastor on an annual basis.
- Cooperate with the Senior Pastor by performing any other duties when asked to do so.

I have read and understood the requirements for this position and I can perform the essential responsibilities for this position.

Signature _____ Date _____





How To

Setting a Pastor's Salary

Three ways to determine fair pay, with perks.

by Norman Adamson

He added, "Name your wages, and I will pay them." Genesis 30:28

When establishing a pay package to compensate the pastor in proportion to his or her peers, the question is which set of peers: peers in the community, peers in the church, or peers in ministry.

Establishing a Base

Compare to a teacher. Acknowledge that a pastor compares in many ways to a teacher—in duties, continuing education, and role in the community. The salary package, therefore, should equate to what a local teacher with comparable education and experience would be paid. In addition, because a teacher's health insurance, social security, and often pension contribution are included, a local church should compensate for these as well.

Compare to church leadership. Average the salaries of the church's leadership board. Most churches feel their pastor is at least as valuable to a church as are the other leaders. Therefore, a survey of the lay leaders' incomes, including social security and benefits, is an equitable way to determine what a pastor's base salary should be. More than once I've seen a sly smile slip across the face of a board member at this suggestion. Suddenly the stingy CEO recants his frugal limitations on the pastor's salary rather than expose his own considerable income.

Compare to other pastors in the area. Survey Protestant churches in the area (Protestant pastors, unlike Catholic priests, do not take vows of poverty) to discover what pastors are being paid. This enables a church to factor in an accurate cost of living in their area. Again, it is important when surveying to consider the entire payment package—insurance, housing, reimbursed expenses, etc.

After coming up with the average, consider this question: *Do you feel your pastor is at least an average pastor?* If your pastor is better than average, don't you think he or she deserves at least an average salary?

Not-so-fringe Benefits

As leaders near the final stages of salary setting, I urge them to push the package to the top limit. Then, just as beads of sweat form on the treasurer's brow, I advise them to back down 3 or 4 percent and turn that money into perks to be distributed throughout the year. Why? A pastor and his or her family face pressures





and expectations that are peculiar to the ministry. I encourage churches to creatively structure their pay package to bless their pastor's often stressful life, setting aside funds for creative and thoughtful gestures that let a pastor know he is valued. Here are some options:

- Give the pastor's family two weekends away per year, with a check to cover expenses each time.
- Offer a substantial update of computer and software.
- Give bonus checks on June 1 and December 1 for summer vacation and Christmas expenses.
- Allow the pastor to save the bonus option for three years and then receive a month-long sabbatical and the accrued bonus money.
- Offer to pay for a weeklong retreat at a center for pastoral restoration.

A salary package like this will make for a happier, more motivated pastor, and a better working relationship with church leadership.

This article is adapted from the download "Church Staffing Essentials" from BuildingChurchLeaders.com.

Thought Provokers

- *How does your church determine the pay scale for clergy and staff positions?*
- *What additional benefits do you provide for your clergy?*
- *Of the five additional fringe benefits listed above, which of these do you feel would be meaningful for your clergy or staff?*





How To

Employment Interviews

What you can & can't ask. *by Richard Hammar*

Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. Romans 13:1

It is common for employers to interview applicants for employment in addition to having them complete a written application. This practice provides the employer with an opportunity to assess applicants' suitability for a particular position. Church leaders should understand that several state and federal laws may restrict the kinds of questions that may be asked during an employment interview.

Employers are legally entitled to ask questions that will help them determine if an applicant meets the requirements for a job. But, certain questions are not relevant to an applicant's qualifications and should not be asked. For example, questions about an applicant's race, national origin, disabilities, or age generally are not relevant to an applicant's ability to perform the requirements of a job, and should not be asked. In rare cases, such questions may be permissible if based on a "bona fide occupational qualification." Also, state and federal laws banning discrimination in employment on the basis of religion generally contain broad exemptions for religious organizations. As a result, it generally is permissible for religious organizations to exclude or prefer persons for employment on the basis of religion.

Tip *Church leaders should periodically review questions that are asked during interviews, or on employment applications. Look at each question and ask, "Why are we asking this question? Is this information relevant to the qualifications for this position?"*

The following table summarizes the legal status of several kinds of questions. The table is not exhaustive and there may be exceptions. It assumes that an employer is covered under applicable state or federal nondiscrimination laws.

Also, note that the "ministerial exception" generally bars the civil courts from reviewing decisions by churches and other religious organizations regarding the selection of ministers. This exception permits religious organizations to ask applicants for ministerial positions any questions they wish. See section 8-10 in *Pastor, Church & Law, Volume 3: Employment Law*.





Interview Questions

Question	Acceptable	Inadvisable
Race or color	No.	Applicant's race or color of skin.
Arrest record	No, unless job related.	Number and kinds of arrests.
Conviction record	Questions about actual criminal convictions if substantially related to a person's ability or suitability for performing a specific job.	Questions about convictions unrelated to job requirements.
Military service	Military experience or training if job related.	Type or condition of discharge; questions about military service for another country.
Credit records	None, unless job related.	Questions about charge accounts, credit rating, bankruptcies, and garnishments.
Religion	Religious organizations can ask applicants their religious affiliation, and give preference to applicant's who share the organization's religious beliefs.	—
References	Names of professional and character references, including the applicant's pastor or other religious leader.	—
Birthplace and residence	Applicant's place of residence, length of residence at that location and prior locations, and location of current employer.	Birthplace of applicant, or the applicant's parents or other relatives; birth certificate, naturalization or baptismal certificate prior to hiring.





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Question	Acceptable	Inadvisable
Language	Languages the applicant speaks or writes fluently, if job related.	Applicant's mother tongue; language used at home; how the applicant acquired the ability to read, write, or speak a foreign language.
Name	Whether applicant has worked under a different name if necessary to allow a check of work or education records.	The original name of an applicant whose name has been legally changed or the national origin of the applicant's name.
Marital status	Whether the applicant is married, single, divorced, separated, or engaged, if relevant in assessing the applicant's suitability for employment with a religious employer based on doctrinal considerations.	Whether the applicant is married, single, divorced, separated, engaged, or widowed, unless these questions are relevant in assessing an applicant's suitability for employment with a religious employer based on doctrinal considerations.
Citizenship	Documentation to establish the applicant's identity and employment eligibility.	Birthplace of the applicant or any information not relevant to making employment decisions.
Age	None, unless age is a bona fide occupational qualification.	Requesting age on employment application, using phrases such as "young, boy, girl, recent college graduate" on help wanted notices or advertisements.
Sex	None, unless sex is a bona fide occupational qualification (such as an applicant for a pastoral position with a church that is	An applicant's sex, unless sex is a bona fide occupational qualification (such as an applicant for a pastoral position with a church that is doctrinally opposed to the





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Question	Acceptable	Inadvisable
	doctrinally opposed to the ordination of women).	ordination of women).
Family status	If applicant has responsibilities or commitments that prevent him or her from meeting work schedules if asked of all applicants regardless of sex.	Marital status, number and age of children, spouse's job.
Pregnancy	Applicant's anticipated duration of employment, if asked of all applicants.	Any questions about pregnancy, medical history, or family plans.
Child care	None, unless job related and asked of all applicants.	Questions about child care arrangements that are only addressed to female applicants.
Height and weight	None, unless job related.	Any question unrelated to job requirements.
Disability	Whether the applicant can perform the essential functions of the job in question.	Questions about an applicant's disabilities.
Organizations	Applicant's membership in professional organizations if job related.	All clubs, social organizations, societies, and other non-job-related organizations to which the applicant belongs.
Relatives and friends	Names of applicant's relatives already employed by the employer.	Names of friends working for the employer or relatives other than those working for the employer.





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Question	Acceptable	Inadvisable
Photographs	None, except after hiring.	Photographs with an application or after an interview but prior to hiring.
Sexual orientation	Many states have enacted laws prohibiting private employers from discriminating in employment decisions on the basis of sexual orientation. All of these laws exempt religious employers. As a result, religious employers may ask applicants questions about their sexual orientation if required by the employer's doctrine.	Many states have enacted laws prohibiting private employers from discriminating in employment decisions on the basis of sexual orientation. All of these laws exempt religious employers. As a result, religious employers may ask applicants questions about their sexual orientation if required by the employer's doctrine.

Thought Provokers

- *As you study this list of interview questions, which information is new to you?*
- *What will you need to adjust in your interviewing process based on this information?*
- *What interviewing techniques have worked well for you in learning more about prospective employees?*





How To

Digging Deeper Into Background Checks

Do the benefits outweigh the cost? *by John Throop*

*Like an archer who wounds at random is he who hires a fool or any passer-by.
Proverbs 26:10*

There are nearly 450,000 congregations in the United States and Canada. Using a conservative estimate of 20 volunteers per church, we have a total of nine million church volunteers. If there are on average three employees per church, then we also have nearly one-and-a-half million staff members.

That's more than 10 million volunteers and staff members. Do you think every one of them is squeaky clean? Not a chance. People sometimes hide who they really are. Job seekers lie on their resumes. Potential volunteers and employees hide driving records, job safety history, and arrest records. Some even hide their real names and social security numbers.

Even worse, says Brad Snellings, chief sales officer at Protect My Ministry, there are 400,000 registered sexual offenders—a number that continues to grow. He also found that one church out of every 25 reports allegations of sexual abuse in any given year. It has been found that a sexual abuser typically abuses three to six children every year before being stopped.

Why do people lie about their pasts? Aren't church people beyond such behavior? At best, people hide past mistakes because they are trying to find a fresh start, leaving the past behind. At worst, they are hiding from the law, or looking for new fields for sinful activity.

Expanding Services

Thankfully, several companies in the last 15 years have developed background check services designed for churches and ministries. Their work has grown tremendously, both in the number of churches using their services and in the types of programs offered.

Some background-checking services provide “instant” results (completed in just minutes) and include verification of social security number, the form of identity the person presents, and a check of motor vehicle records. Other services, such as a credit bureau record check, criminal history record check, or listings on the National Sex Offender Registry or the Office of Foreign Asset Control (also known as the “terrorist watch list”) take two or three days to complete.

Most criminal and identification records are maintained in county offices. There are over 3,300 counties in the United States. In some cases, county records are aggregated





at the state level. “Counties will report information to the state level, but there is no mandate of the type of information reported into a national database from the states,” says Snellings. So information from state or national databases not derived from county records may be hit or miss. A quality service provider will guarantee to perform due diligence and contact a county for the search. Snellings says that there are two ways to access county records—online (through paid access), or manually, when the search firm sends a court runner to trace records.

Customized Searches

The type and depth of a background check depends on whether the person is a potential employee or a volunteer, whether the person will have access to financial records and data, and whether the person will have contact with vulnerable people such as children, the elderly, or the disabled.

“We serve 15 denominations, all of which have different needs,” says Chuck Koterba, executive for client services at Oxford Document Management Services. “We can create six different levels for a records search.” This allows the church to select the right type of search for pastors, pastoral support staff, lay staff, and different types of volunteers. Searches can be designated to look for any past problems in areas related to the current job or volunteer functions, such as driving, handling assets, or accessing other people’s personal records.

Check Again

It’s important to check everyone’s record periodically—not just when a person is first hired or first volunteers, says Ed Petersen, executive vice president for sales and marketing at Intelius. “A church or ministry needs to do a background check even though that person has been at work for five years,” he says, adding that monitoring should be done more frequently, depending on size of the church.

“People may develop bad motives in their employment,” Petersen says. Employees and volunteers continually have opportunities to do something wrong. If they go through a life-changing event such as divorce, bankruptcy, or medical problems, they might be more susceptible to making poor decisions. Life-changing events or addictive behaviors can cause people—even church workers—to do things they never thought they would.

Snellings says that insurance companies have been the driving force behind church employee background checks, and now the focus includes volunteers, too. “Insurers are saying they won’t cover a church or organization unless background checks are done—to minimize risk,” he says.

Worth the Cost

The background check process is not perfect. While county records are usually carefully maintained, people still fall through the cracks, or can be identified as having committed crimes they never did commit. It’s also true that some crimes go unreported—churches fail to report embezzlement of funds out of embarrassment, neglect, or confusion. The people involved move on to other churches.

Churches need to be careful dealing with people immigrating to the United States. Other countries can be lax in background recordkeeping. Records sometimes do not





travel across borders. In these cases, it is important to find reliable references who can verify records of an immigrant or refugee.

For risk reduction, however, the money spent on background checks is money well spent. Prices vary based on number and frequency of record checks. Typically, a per-record check can run from \$10 to \$20 for a basic local church volunteer. Employees and volunteers with more experience, or with greater risks in the work, may require more extensive checks. The fee typically is \$50 to \$75. An experienced, ordained person undergoing several types of checks might cost \$100 to \$200.

Prices can decline with a high volume of reports, or if a denominational office has a records check contract, or if the denomination helps to subsidize the expense. But the costs represent a great value to identify potentially harmful employees and volunteers. The bottom line is to protect the church family, church property, and church ministries.

Resources

- **Safe Hiring Solutions**, 888-215-8296, safehiringsolutions.com
- **Intelius**, 425.974.6100, intelius.com
- **Oxford Document Management Services**, 800.801.9114, oxforddoc.com
- **Protect My Ministry**, 800.319.5581, protectmyministry.com
- **ScreenChurchStaff.com**

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Thought Provokers

- *Do you currently conduct background checks as a routine part of your screening process for all prospective clergy and staff positions? If not, why?*
- *In what ways do you feel the benefits of doing a background check outweigh the cost involved?*





For Board Members

Compensation Planning for Clergy

Understanding tax issues related to a benefits package. *by Richard Hammar*

The elders who direct the affairs of the church well are worthy of double honor, especially those whose work is preaching and teaching. For the Scripture says, “Do not muzzle the ox while it is treading out the grain,” and “The worker deserves his wages.”
1 Timothy 5:17-18

Compensation planning for clergy and other church staff presents several unique tax issues that are not well understood by many church leaders and their advisers. This article will eliminate some confusion and present the key considerations to review when structuring compensation plans.

In adopting compensation packages for your ministers and lay staff members, review these possible components of the compensation package.

1. Salary. The most basic component of church staff compensation is salary. There are two important considerations to keep in mind with respect to staff salaries—the amount of the salary, and the use of “salary reduction agreements.” These two issues will be discussed separately.

a. Amount. Staff salaries ordinarily are set by the church board. Churches generally may pay any amount they wish, with one important exception—if a church pays unreasonably high compensation to a pastor or other employee there are two possible consequences: loss of tax-exempt status and intermediate sanctions. For more detailed information on these two consequences, see my special section in the annual **Compensation Handbook for Church and Staff**.

The law creates a presumption that a minister’s compensation package is reasonable if approved by a church board that relied upon objective “comparability” information, including independent compensation surveys by nationally recognized independent firms. One of the more comprehensive compensation surveys for church workers is my annual **Compensation Handbook for Church and Staff**. This means that most ministers will be able to use this text to establish the presumption of reasonableness. But it also suggests that the IRS may rely on the data in this text in any attempt to impose intermediate sanctions against ministers.

IRS regulations clarify that “revenue based pay” arrangements in which an employee’s compensation is based on a percentage of the employer’s total revenues do not automatically result in an excess benefit transaction triggering intermediate sanctions. Rather, “all relevant facts and circumstances” must be considered.





Recommendation. Churches that pay a minister (or any staff member) significantly more than the highest 25% for comparable positions should obtain a legal opinion from an experienced tax attorney confirming that the amount paid is not “unreasonable” and will not expose the employee or the board to intermediate sanctions.

b. Salary reduction agreements. Many churches have established “salary reduction agreements” to handle certain staff expenses. The objective is to reduce a worker’s taxable income since only the income remaining after the various “reductions” is reported on the worker’s W-2 or 1099 form at the end of the year. It is important for churches to understand that they cannot reduce a worker’s taxable income through salary reductions unless specifically allowed by law.

Here are three ways that taxable income can be reduced through salary reduction agreements:

(1) **Tax-sheltered annuity contributions.** Salary reduction agreements can be used to contribute to a tax-sheltered annuity (sometimes called a “403(b) annuity”), if the salary reductions meet certain conditions.

(2) **“Cafeteria plans.”** Salary reduction agreements also can be used to fund “cafeteria plans” (including “flexible spending arrangements”) if several conditions are met. A cafeteria plan is a written plan established by an employer that allows employees to choose between cash and a “menu” of nontaxable benefits specified by law (including employer-provided medical insurance premiums, group-term life insurance, and dependent care).

(3) **Housing allowances.** A church can designate a portion of a minister’s salary as a housing allowance, and the amount so designated is not subject to income tax if certain conditions are met. Housing allowances are addressed in detail just below.

Observation. In some cases “salary reductions” will not accomplish the goal of reducing a minister’s taxable income. The income tax regulations prohibit the widespread practice of funding “accountable” reimbursement arrangements through salary reductions.

RECOMMENDED RESOURCES.

For more detailed information on salaries for church staff members, see chapter 4 in the Church & Clergy Tax Guide.

2. Housing Allowances. The most important tax benefit available to ministers who own or rent their homes is the housing allowance. Ministers who own their home do not pay federal income taxes on the amount of their compensation that their employing church designates in advance as a housing allowance, to the extent that the allowance represents compensation for ministerial services, is used to pay housing expenses, and does not exceed the annual fair rental value of the home (furnished, plus utilities). Housing-related expenses include mortgage payments, utilities, repairs, furnishings, insurance, property taxes, additions, and maintenance.

Ministers who rent a home or apartment do not pay federal income taxes on the amount of their compensation that their employing church designates in advance





as a housing allowance to the extent that the allowance represents compensation for “ministerial services and is used to pay rental expenses such as rent, furnishings, utilities, and insurance.

Unfortunately, many churches fail to designate a portion of a minister’s compensation as a housing allowance. This deprives their minister of an important tax benefit.

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 anywhere 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.

TAX SAVING TIP. Ministers who live in church parsonages, and who incur any out-of-pocket expenses in maintaining the parsonage (such as utilities, property taxes, insurance, furnishings, or lawn care) should ask their employing church to designate a portion of their annual compensation in advance as a “parsonage allowance.” Such an allowance is not included on the minister’s W-2 or 1099 at the end of the year and is nontaxable in computing federal income taxes to the extent the minister incurs housing expenses of at least that amount. This is a very important tax benefit for ministers living in church-provided parsonages. Many ministers and church boards are not aware of this benefit, or are not taking advantage of it.

Note that these exclusions are for federal income tax purposes only. Ministers cannot exclude the fair rental value of a parsonage or a housing allowance when computing their self-employment (Social Security) taxes.

Recommendation. *Be sure that the designation of a housing or parsonage allowance for year the next year is on the agenda of the church board for one of its final meetings in the current year. The designation should be an official action of the board or congregation, and it should be duly recorded in the minutes of the meeting. The IRS also recognizes designations included in employment contracts and budget line items—assuming in each case that the designation was duly adopted by the church board (or the congregation in a business meeting). Also, if the minister is a new hire, be sure the church designates a housing allowance prior to the date he or she begins working.*

How much should a church board or congregation designate as a housing allowance? Many churches base the allowance on their minister’s estimate of actual housing expenses for the new year. The church provides the minister with a form on which anticipated housing expenses for the new year are reported. For ministers who own their homes, the form asks for projected expenses in the following categories: down payment, mortgage payments, property taxes, property insurance, utilities, furnishings and appliances, repairs and improvements, maintenance, and miscellaneous. Many churches designate an allowance in excess of the anticipated expenses itemized by the minister. Basing the allowance solely on a minister’s actual expenses will penalize





the minister if housing expenses in fact turn out to be higher than expected. In other words, the allowance should take into account unexpected housing costs or inaccurate projections of expenses.

Recommendation. *Plan a mid-year review of the housing allowance to make sure that the designated amount is sufficient to cover actual expenses. If a pastor's expenses will exceed the allowance, then the church may amend the allowance. But any amendment will only operate prospectively.*

Observation. It is important to note that the housing allowance is available only if two conditions are met: (1) the recipient is a minister, and (2) the allowance is provided as compensation for services performed in the exercise of ministry. In many cases, these conditions will not be satisfied by administrators, music directors, secretaries, or custodians.

RECOMMENDED RESOURCES

For more detailed information about tax law and housing allowances, see chapter 6 in the Church & Clergy Tax Guide.

3. Equity Allowances. Ministers who live in church-owned parsonages are denied one very important benefit of home ownership—the opportunity to accumulate “equity” in a home over the course of many years. Many ministers who have lived in parsonages during much of their active ministry often face retirement without housing. Their fellow ministers who purchased a home early in their ministry often can look forward to retirement with a home that is either substantially or completely debt-free. To avoid the potential hardship often suffered by a minister who lives in a parsonage, some churches increase their minister's compensation by an amount that is sometimes referred to as an “equity allowance.” The idea is to provide the minister with the equivalent of equity in a home. This is an excellent idea that should be considered by any church having one or more ministers living in church-provided housing. Of course, for the concept to work properly, the equity allowance should not be accessible by the minister until retirement. Therefore, some churches choose to place the allowance directly in a minister's tax-sheltered retirement account.

Recommendation. *Equity allowances should also be considered by a church whose minister rents a home.*

RECOMMENDED RESOURCES

For more detailed information about tax law and equity allowances, see chapter 6, section A.7, in the Church & Clergy Tax Guide.

4. Accountable Business Expense Reimbursement Policy. One of the most important components of church staff compensation packages is an “accountable” business expense reimbursement arrangement. This benefit is available to both ministers and lay staff members alike. Under such an arrangement a church (1) reimburses only those business expenses that are properly substantiated within a reasonable time as to date, amount, place, and business purpose, and (2) requires any excess reimbursements (in excess of substantiated expenses) to be returned to the church. Churches should





seriously consider adopting an accountable reimbursement policy for reimbursing staff business expenses. Such a policy has the following advantages:

- Church staff report their business expenses to the church rather than to the IRS.
- Church staff who report their income taxes as employees, or who report as self-employed and who are reclassified as employees by the IRS in an audit, avoid the limitations on the deductibility of employee business expenses. These limitations include (1) the elimination of any deduction if the worker cannot itemize deductions on Schedule A (most taxpayers cannot), and (2) the deductibility of business expenses on Schedule A as an itemized expense only to the extent that these expenses exceed 2% of the worker's adjusted gross income.
- The so-called *Deason* allocation rule is avoided. Under this rule, ministers must reduce their business expense deduction by the percentage of their total compensation that consists of a tax-exempt housing allowance.
- The "50% limitation" that applies to the deductibility of business meals and entertainment expenses is avoided. Unless these expenses are reimbursed by an employer under an accountable plan, only 50% of them are deductible by either employees or self-employed workers.
- Church staff who report their income taxes as self-employed avoid the risk of being reclassified as an employee by the IRS in an audit and assessed additional taxes.

Observation. Many churches provide automobile allowances to their ministers and lay staff. In many cases, a church will simply provide a fixed dollar amount every month to a worker (for example, \$300), and require no substantiation of business miles or a return of any "excess reimbursements" (in excess of substantiated business miles). This is referred to as a "nonaccountable" reimbursement arrangement. What are the tax consequences of such an arrangement? The allowances must be added to the worker's W-2 or 1099 at the end of the year, and the worker can claim a business deduction on Schedule A (if an employee) or on Schedule C (if self-employed). If a worker is an employee with insufficient itemized deductions to use Schedule A, there is no deduction available for business expenses even though the full amount of the monthly allowances are added to taxable income. This is a very unfortunate tax result that can be avoided completely through an accountable reimbursement arrangement. For a sample board resolution adopting an accountable business expense reimbursement arrangement, see chapter 7 of Richard Hammar's annual **Church & Clergy Tax Guide**.

EXAMPLE. *A church pays its senior pastor an annual salary of \$45,000 this year. In addition, it provides the pastor with a monthly car allowance of \$400. This is an example of a nonaccountable reimbursement arrangement. Assume that the church treasurer reports none of these reimbursements as taxable income on the pastor's Form W-2 since she assumes that the pastor had "at least" \$4,800 in expenses associated with the business use of his car and so there was no need to report the nonaccountable reimbursements as taxable income. This assumption not only is incorrect, but it also converts the nonaccountable reimbursements into an "automatic" excess benefit exposing the pastor to intermediate sanctions, as noted previously in this chapter. This assumes that the senior pastor is an officer or director (or relative of an officer or director).*





The income tax regulations prohibit the funding of accountable reimbursement arrangements through salary reductions.

KEYPOINT. Many churches set aside a certain amount each year to cover an employee's total compensation. For ministers, this amount often includes salary, housing allowance, fringe benefits, and an amount for the reimbursement of business expenses.

RECOMMENDED RESOURCES

For more detailed information about tax law and business expense reimbursement policies, see chapter 7, section E, in the Church & Clergy Tax Guide.

5. Travel Expenses of a Spouse. A church should decide if it will be paying for any of the travel expenses of a spouse accompanying a minister or other staff member on a business trip. Reimbursing these expenses represents a significant benefit. Unfortunately, there is much confusion regarding the correct reporting of such reimbursements for tax purposes. If the spouse's presence on the trip serves a legitimate business purpose, and the spouse's travel expenses are reimbursed by the church under an accountable arrangement (described above) then the reimbursements represent a nontaxable fringe benefit. If these two requirements are not met, the reimbursements represent taxable income to the minister or staff member.

CAUTION. If either of these conditions is not met, then a church's reimbursement of a nonemployee spouse's travel expenses will represent taxable income to the minister or other staff member. The same applies to children who accompany a minister or staff member on a business trip. Further, the IRS may assert that the church's failure to report the reimbursement of the spouse's expenses as taxable income to the minister makes the reimbursement an "automatic" excess benefit triggering intermediate sanctions.

TAX SAVING TIP. If a church does not reimburse the travel expenses of a pastor's spouse who accompanies the pastor on a business trip, then the spouse may be able to deduct travel expenses as a charitable contribution (assuming that the spouse's presence on the trip serves a legitimate "business" purpose).

RECOMMENDED RESOURCES

For more detailed information about tax law and the travel expense of a spouse, see chapter 7, section C.2, in the Church & Clergy Tax Guide.

6. Church-Owned Vehicles. Churches should consider the advantages of acquiring an automobile for staff members' church-related travel. Here's why. If a church purchases a car, and the church board adopts a resolution restricting use of the car to church-related activities, then the worker reports no income or deductions, and better yet, there are no accountings, reimbursements, allowances, or recordkeeping requirements. This assumes that the car is in fact used exclusively for church-related purposes, and the strict conditions specified in the income tax regulations are satisfied.

Commuting is always considered to be personal use of a car, and so this procedure would not be available if a church allowed a worker to commute to work in a church-owned vehicle. Fortunately, the income tax regulations permit certain church employees who use a church-owned vehicle exclusively for business purposes except for





commuting to receive all of the benefits associated with business use of a church-owned vehicle, if certain additional conditions are met.

Unfortunately, most churches that provide a staff member with a car do not consider either of these alternatives. Rather, they simply transfer the car to the individual and impose no limitations on personal use. This arrangement results in taxable income to the staff member, whether the staff member is a minister or a lay employee.

RECOMMENDED RESOURCES

For more detailed information about tax law and church owned vehicles, see chapter 4, section B.8, in the Church & Clergy Tax Guide.

7. Self-Employment Tax. There is one provision in the tax code that has caused more confusion for ministers and church treasurers than any other, and it is this: Ministers are always treated as self-employed for Social Security with regard to services they perform in the exercise of their ministry. This is true even if they are employees for federal income tax reporting purposes. This is sometimes referred to as the “dual tax status” of ministers.

Social Security benefits are financed through two tax systems. Employers and employees each pay “Social Security” and “Medicare” (sometimes collectively referred to as “FICA”) taxes which for 2008 amount to 7.65% of an employee’s taxable wages (a total tax of 15.3%) up to a specified amount. Self-employed persons pay the “self-employment tax,” which for 2008 is 15.3% of net self-employment earnings up to a specified amount. Note that self-employed workers are responsible for paying their entire Social Security tax liability, while employees pay only half (their employer pays the other half).

KEYPOINT. Ministers always are treated as self-employed for Social Security with respect to services performed in the exercise of their ministry, and so they do not pay “Social Security” and “Medicare” taxes. Rather, they pay the “self-employment tax” with respect to church compensation, unless they have filed a timely application for exemption from Social Security taxes (and received back a copy of their exemption application from the IRS marked “approved”). As a result, ministers must be familiar with the self-employment tax rules. So must lay church employees who work for a church that filed a timely exemption from Social Security coverage (Form 8274), since they are considered self-employed for Social Security.

KEYPOINT. Many churches pay some or all of their pastor’s self-employment taxes. This is perfectly appropriate. After all, churches pay half of a non-minister employee’s Social Security and Medicare taxes, so why shouldn’t it do the same for its pastor? Research conducted by *Church Law & Tax Report* reveals that in 2007 about one-third (32%) of churches paid some or all of their senior pastor’s self-employment taxes. Of those churches that did, 58% paid one-half of the self-employment tax, while 35% paid all of it. Any portion paid by the church is a taxable fringe benefit that must be reported as additional wages on the pastor’s W-2 or 1099 form, and Form 1040. It also should be reported as additional income by the pastor in computing self-employment taxes.

KEYPOINT. Housing allowances and the fair rental value of parsonages are





includable in self-employment earnings for Social Security purposes.

CAUTION. Many churches withhold the employees' share of Social Security and Medicare taxes from ministers' compensation, and then pay the employer's share. In other words, they treat their minister as an employee for Social Security. This is understandable, especially when the church treats the minister as an employee for purposes of federal income taxation. But, it is always incorrect for a church to treat a minister as an employee for Social Security with respect to services performed in the exercise of ministry.

Ministers may exempt themselves from self-employment taxes with respect to services performed in the exercise of ministry if several requirements are met. Among other things, the exemption must be filed by the due date of a minister's federal tax return (Form 1040) for the second year in which he or she had net self-employment earnings of \$400 or more, any part of which derived from the performance of ministerial duties. In most cases, this means the form is due by April 15 of the third year of ministry. Also, the minister must be opposed on the basis of religious convictions to accepting Social Security benefits.

As a self-employed person for Social Security, a minister computes self-employment taxes on Schedule SE of Form 1040.

RECOMMENDED RESOURCES

For more detailed information about tax law and self-employment tax, see chapter 9 in the **Church & Clergy Tax Guide**.

8. Insurance. Churches often provide ministers with life, health, or disability insurance coverage and pay all of the premiums for such coverage. In some cases, churches make the same benefits available to lay staff members. The income tax regulations specify that the gross income of an *employee* does not include contributions which his employer makes to an accident or health plan for compensation (through insurance or otherwise) to the employee for personal injuries or sickness incurred by him, his spouse, or his dependents The employer may contribute to an accident or health plan by paying the premium (or a portion of the premium) on a policy of accident or health insurance covering one or more of his employees, or by contributing to a separate trust or fund...

The exclusion of employer-paid health insurance premiums from the taxable income of employees is one of the main reasons why ministers and other staff members often are better off reporting their income taxes as employees. This important benefit is not available to workers who report their income taxes as self-employed. A church wishing to make this benefit available to its ministers (or other employees) should adopt a plan in an appropriate board resolution. Plans that benefit only ministers are exempted from the "nondiscrimination" rules that apply to most of these kinds of plans.

RECOMMENDED RESOURCES

For more detailed information about tax law and insurance, see chapter 5 in the **Church & Clergy Tax Guide**.

9. Retirement Accounts. Most ministers (and some lay staff members) participate





in some form of retirement plan. Such plans often are sponsored either by the local church, or by a denomination or agency with which the church is affiliated. Church workers covered by certain kinds of plans can choose to have part of their pay set aside each year (through “salary reductions”) in the retirement fund, rather than receiving it as income. Amounts set aside by the employing church under these plans may be excludable from gross income for tax purposes. These amounts are sometimes called “elective deferrals” because the employee elects to set aside the money, and tax on the money is deferred until it is taken out of the account. This option is available to ministers or lay workers who are covered by tax-sheltered annuities (“403(b) plans”), simplified employee pensions (SEPs), and certain other plans.

Payments made by an employing church toward an employee’s tax-sheltered annuity, SEP, and certain other plans, and funded out of church funds rather than through a reduction in an employee’s compensation, may also be excluded from the employee’s gross income for tax purposes under certain circumstances. There are limits on how much an employee can elect to contribute into such plans, and on how much the employing church can contribute out of its own funds. Of course, ministers and lay workers (whether employees or self-employed for income tax purposes) can also contribute to an IRA.

Recommendation. *If a church has not established or contributed to a retirement plan for its staff members, then it should consider doing so or at least ensuring that staff members are participating in an adequate alternative (particularly in the case of ministers who have exempted themselves from Social Security coverage). Further, if staff members are participating in a retirement plan, then the end of the year is a good time to determine how contributions to the plan in the upcoming year will be funded (i.e., through employee contributions, salary reductions, or church contributions) and in what amounts.*

RECOMMENDED RESOURCES

For more detailed information about tax law and retirement accounts, see chapter 10 in the **Church & Clergy Tax Guide**.

This is not an exhaustive list for compensation planning. To learn more, be sure to consult Richard Hammar’s **Church and Clergy Tax Guide** and his annual **Compensation Handbook for Church and Staff**.

*This article is adapted from the Special Section “Tax Planning and Compensation” in the 2008 **Compensation Handbook for Church and Staff**.*





Thought Provokers

- *Which of these compensation items do you currently include in your packages for clergy?*
- *What have you done to investigate the tax ramifications of your compensation packages for clergy and staff?*





The Legal Side

Employee Handbooks

How to establish expectations without increasing legal risks as an employer. *by Richard Hammar*

He guides the humble in what is right and teaches them his way. Psalm 25:9

Many employers have adopted employee handbooks as a way of informing employees of various job-related policies and benefits. While handbooks can be helpful in avoiding disagreements and false expectations, they can create legal risks to the employer in some cases. Here are some important points to consider in drafting an employee handbook:

Legal review. Plaintiffs' lawyers will scrutinize every word in your employee handbook, looking for language that confers rights that may or may not have been intended. As a result, it is imperative for churches to have an attorney draft, or at least review, their employee handbook.

Commercially available handbooks. Employers can find sample employee handbooks at any office supply store, many discount stores, or on the Internet. While some of these handbooks may contain valuable information, they should not be used without legal review.

Brevity. Keep it short. The longer it is, the more likely a court will find some unexpected "right" that was violated by the church. Also, it becomes difficult to remember and apply the provisions in employee handbooks that become excessively lengthy.

Essential provisions. What should an employee handbook address? Key provisions will include: discipline and termination; compensation and fringe benefits; accrual of benefits; expense reimbursement; employee evaluations; equal opportunity statement (clarifying that the church is legally permitted to discriminate on the basis of religion in its employment decisions); vacation and other types of leave; retirement plans and contributions; work hours and breaks; overtime; employee standards; computer inspection policy; and arbitration of disputes.

Disclaimer. Many employee handbooks contain a notice clarifying that the document is not a contract, and that only the church board may enter into contractual obligations on behalf of the church.

New hires. Have all new hires sign a document in which they agree to be bound by the terms of the handbook.

*This article is adapted from **Pastor, Church & Law, Volume 3: Employment Law** (Christianity Today International, 2007) by Richard R. Hammar.*





Leader's Guide

Resource Center

Quick tips and recommended resources.

But in fact God has arranged the parts in the body, every one of them, just as he wanted them to be. If they were all one part, where would the body be? As it is, there are many parts, but one body. 1 Corinthians 12:18-20

Tips for Using Articles

Consider these options for the use of articles and information in this download:

- Pass the “Developing Clearly Defined Work” article around at your next staff meeting and have a 15-minute discussion on the topic of job descriptions.
- At the next board meeting, suggest introducing a church policy on background checks and pass out the article “Digging Deeper Into Background Checks.”
- Using the Bible verses found at the beginning of the articles, lead a devotional discussion at a staff meeting on the topic of hiring practices.
- Using the “Thought Provoker” questions, lead a discussion with church staff members.

Additional Resources

Books and articles

- Richard Hammar’s annual **Compensation Handbook for Church and Staff**.
- **Pastor, Church & Law, Volume 3: Employment Law** (Christianity Today International, 2007) by Richard R. Hammar.
- **The Big Book of Job Descriptions for Ministry: Identifying Opportunities and Clarifying Expectations for Ministry** by Larry Gilbert and Cindy Spear. Includes handbook and CD-ROM. (Gospel Light Publications, 2002; ISBN 0830729186)
- **The BLR Job Descriptions Encyclopedia** by Judy Ruddy. (Business & Legal Reports, Inc., 1996; ISBN 1556450478)
- **Job Description Handbook** by Margie Mader-Clark. Includes CD-ROM. (NOLO Press, 2006; ISBN 1413304427)
- **More Results-Oriented Job Descriptions: 226 Models to Use or Adapt—With Guidelines for Creating Your Own** by Roger J. Plachy and Sandra J. Plachy (AMACOM Publishing, 1998; ISBN 0814479618)





Websites

- **Building Church Leaders: Leadership training resources from Christianity Today International: BuildingChurchLeaders.com**
 - “Recruiting and Staffing” Training Theme and PowerPoint
 - “Church Staffing Essentials” Practical Ministry Skills
- **Your CHURCH magazine** from Christianity Today International
- **Society for Human Resource Management** at www.shrm.org offers print and on-demand resources for job description creation and maintenance—and a host of additional HR issues.
- **Christian Management Association** at www.cmaonline.org offers various resources in its magazine (Christian Management Report), its annual conference, and various vendors in general human resources, question/answer opportunities, and contact with consultants on specific HR issues.
- **ChurchStaffing.com** has a list of job descriptions that can be downloaded, and a CD-ROM resource to “customize” a description.
- **HR Village** has many online job description resources online at its website.
- **HR-Guide.com** offers a variety of basic online job description resources at its website: www.job-analysis.net.

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