

2016 CHURCH TAX UPDATE



Church-Staff-Benefits/Stewardship

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OVERVIEW

- ✘ Affordable Care Act Compliance
- ✘ SCOTUS Gay Marriage Ruling Impact
- ✘ Designated Funds & Donor Restricted Funds
- ✘ Digital Copyright Issues
- ✘ Charitable Contribution Substantiation
- ✘ Record Keeping & Federal Reporting
- ✘ Ministerial Compensation
- ✘ Risk Management

AFFORDABLE CARE ACT COMPLIANCE

- ✘ **2015-17 Transition Relief Notice – DOL, HHS and IRS released TRN on February 18, 2015**
 1. Provided relief for small employers from penalties January 1, 2014 through June 30, 2015
 2. Failure to comply by June 30, 2015 could result in a penalty of \$100/day for small employers
 3. Better defined compliance

AFFORDABLE CARE ACT COMPLIANCE

- ✘ Church Compliance Practices:
 1. **Single Employee Exemption** – a church that provides/reimburses health insurance to only one employee can provide an individual health insurance policy (from the Exchange or the Old Market Place) to that employee on a **pretax** basis. If the church ever provides/reimburses health insurance to another employee then the church must provide a group health insurance plan **or** include the individual health policy premiums as income.

AFFORDABLE CARE ACT COMPLIANCE

- ✘ **Single Employee Exemption with more than one employee:**

To provide the Single Employee Exception with more than one employee, there **must** be a written policy stating the benefit and how it works. There must also be compliance with ACA non-discrimination rules.

Single Employee Exemption from the Exchange can only reimburse/pay the cost of premiums minus the subsidies.

AFFORDABLE CARE ACT COMPLIANCE

2. Churches that provide/reimburse individual health insurance policies for two or more employees can shift the cost of the premiums into income for the employees receiving the benefit. Individual health insurance policies are no longer pretax when provided for two or more employees. With this option the church no longer offers a health insurance benefit.

- ✘ **Cannot** require raises to be used for insurance.
- ✘ **Must** also offer raises to other employees
- ✘ **Group plans** are a good option if the church decides to offer health insurance sometime later

AFFORDABLE CARE ACT COMPLIANCE

3. Churches can provide a pretax health insurance benefit by reimbursing employee **group health coverage** obtained through a **spousal employer** as long as the amount reimbursed is **not** a pretax deduction by the spousal employer (cannot be pretax both places)
4. Churches can provide **Medicare part B and D** coverage pretax when those are included as part of a **group health insurance plan** for two or more employees
5. Churches can provide/reimburse **Medicare Supplemental plan premiums** pretax

NOTE: Keep on file a copy of all reimbursements

AFFORDABLE CARE ACT COMPLIANCE

6. **Cost Sharing Plans (like Medi-Share)**
These plans are exemptions from the Individual Mandate of the ACA (need to file form 8965 with your personal tax return). However, cost sharing plans are not insurance plans and are therefore not a pretax benefit.

AFFORDABLE CARE ACT COMPLIANCE REPORTING FORMS

- ✘ **1095 B** - Insurance **provider** completes and sends to IRS and participants of small employers (< 50 FTEEs). Employees should keep form with tax documents
- ✘ **1095 C** - Employers of 50 or greater FTEEs complete this form for each employee and gives to employees
- ✘ **1094 B and 1094 C** - submittal forms to the IRS with Forms 1095 B and 1095 C

IRS EXTENDS DEADLINE FOR 2015 REPORTING OF FORMS 1095 B AND 1095 C

- ✘ **1095 B** - Due date for insurance providers to give form 1095 B to employees of less than 50 FTEEs is moved from Feb. 1, 2016 to Mar. 31, 2016
- ✘ **1095 C** - Due date for Applicable Large Employers (ALEs) to give to employees is moved from Feb. 1, 2016 to Mar. 31, 2016

These forms are to be kept with personal tax info, not sent to the IRS (not part of personal tax return)

IRS EXTENDS DEADLINE FOR 2015 REPORTING OF FORMS 1094 B AND 1095 B

- ✘ Paper submissions to the IRS of Forms 1094 B and 1095 B are extended from Feb 29, 2016 to May 31, 2016
- ✘ Electronic submissions to the IRS of Forms 1094 B and 1095 B are extended from Mar 31, 2016 to Jun 30, 2016

ADDITIONAL BENEFITS

- ✘ Churches should make sure that they are providing **group** life, disability, ADD, dental and vision plans as benefits
- ✘ Individual policies in these other benefit areas are not pretax benefits
- ✘ All GuideStone plans, including personal plans, qualify for group coverage in all benefit options

SCOTUS GAY MARRIAGE RULING IMPACT

FOR CHURCHES:

1. Statement of Faith
2. Religious Employment Criteria
3. Facility Use Policy
4. Formal Membership Policy
5. Marriage Policy

SCOTUS GAY MARRIAGE RULING IMPACT

For Christian Ministries:

1. Statement of Faith
2. Religious Employment Criteria
3. Facility Use Policy
4. Religious Mission Statement
5. Code of Christian Conduct
6. Emphasize Religious Character

**SCOTUS GAY MARRIAGE
RULING IMPACT**

For Christian Schools:

1. Statement of Faith
2. Religious Employment Criteria
3. Facility Use Policy
4. Religious Mission Statement
5. Code of Christian Conduct
6. Emphasize Religious Character

**SCOTUS GAY MARRIAGE
RULING IMPACT**

For Christian Schools cont'd:

7. Admissions Procedures
8. Religious Instruction
9. Handbooks
10. Disciplinary Procedures

**SCOTUS GAY MARRIAGE
RULING IMPACT**

For Christian Business Owners:

1. Christian business owners do not have the same protection in the First Amendment to the United States Constitution that churches have and that church based schools and ministries have historically been granted
2. Legal showdowns ahead regarding religious liberty vs. sexual liberty

DESIGNATED FUNDS & DONOR RESTRICTED FUNDS

- ✘ **Designated funds** – funds the church authorizes to be moved from the general operating budget into a designated account
- ✘ **Donor Restricted Funds** – funds the church receives on which the donor has placed restrictions on how the funds can be spent. When the church receives donor restricted funds the restrictions must be followed in spending the funds. Churches are not required to receive donor restricted funds and should evaluate that all donor restricted funds meet the requirements of the church's tax exempt status and church bylaws

DESIGNATED FUNDS & DONOR RESTRICTED FUNDS

- ✘ **Designated funds** are approved by the church decision-making structure. Therefore, the church can **reverse** the designation whenever the church should choose
- ✘ In order to change a **donor restricted fund** the church needs to contact each donor and obtain permission to change the restriction
- ✘ UPMIFA Law

DESIGNATED FUNDS & DONOR RESTRICTED FUNDS

Church Mergers & Acquisitions:

1. It is wise to have a title search on all mergers and other property acquisitions
2. All previous restrictions on properties that are acquired remain in effect, including liens, setbacks and building/construction restrictions
3. Full disclosure is important in all real property acquisitions

DIGITAL COPYRIGHT ISSUES

- ✘ Beware of using photos from the internet
- ✘ Stock Image Companies - licensed to distribute categories of photos/images
- ✘ Browsers (Google, Safari, Internet Explorer) usually do not disclose licensing information
- ✘ Assume all digital photos and images are copyright protected (pay/get permission)
- ✘ Applies to websites, power points, apps

CHARITABLE CONTRIBUTION SUBSTANTIATION

- ✘ Pension Protection Act of 2006 (revised 2007)
- ✘ Churches must record all cash donations from specific donors identified by check, envelope, or electronically
- ✘ Church should provide annual charitable contribution statements to requesting donors by Jan. 31 of the year after the contributions were given
- ✘ Donors must have written proof of donations from charity before filing tax return claiming charitable deduction

CHARITABLE CONTRIBUTION SUBSTANTIATION

- ✘ Non-cash donations of less than \$500 require a written receipt specifying the date of the donation, the donor, and a detailed description of the property including the working condition of the property
- ✘ Non-cash donation of \$500-\$5,000 require in addition to above information how and when the donor obtained the property, and the cost of the property and how long the donor owned the property (helps determine the cost basis)

CHARITABLE CONTRIBUTION SUBSTANTIATION

- ✘ Non-cash donations of \$5,000 or more require an appraisal from a certified appraiser provided by the donor and signing Part B, Section IV of donor form 8283
- ✘ If the church sells the above donation for less than appraisal within three years, the church must file form 8282 within 125 days of the date of the disposal of the property
- ✘ Special rules and forms for donating planes, automobiles, boats, stock and clothing

RECORD KEEPING & REPORTING

- ✘ Update Bylaws, Incorporation, Policies & Procedures (synchronize)
- ✘ Reconcile Finances, update passwords, backup
- ✘ Meeting Minutes – all committee/team meetings, board meetings, church decisions
- ✘ Membership
- ✘ Payroll and Tax Records – W-2s, W-4s, 1099s, W-9s, 941s
- ✘ Contracts

COMPENSATION – SALARY & HOUSING ALLOWANCE

- ✘ Taxable compensation (salary & housing) should be reasonable
- ✘ W-2 should report salary in box 1
- ✘ Housing Allowance is not required to be reported on the W-2 (optional – if reporting housing allowance use box 14)
- ✘ Salary and housing allowance are negotiable with the minister(s)
- ✘ Church must approve Housing Allowance proactively

COMPENSATION – HEALTH INSURANCE

REIMBURSEMENT VEHICLES

- ✘ **EPP** – Employer Payment Plan for paying premiums of a group health plan. Must be written.
- ✘ **HRA** – Health Reimbursement Arrangement - can be used as a self-insured reimbursement of group health insurance premiums and qualifying expenses with a written document and paying the PCORI fees
- ✘ **HSA** – Health Savings Account (only with QHDHP)
- ✘ **FSA** – Flex Spending Account - up to \$2500 pretax salary reduction for expenses only (outsourced) integrated with a group health insurance plan
- ✘ **125 Plan** - Salary Reduction plan (should be in place for a GuideStone plan if no written policy for insurance)

COMPENSATION - BENEFITS

- ✘ **Retirement** – people will need to save 15-20% to retire at same quality of working life.
- ✘ **Medical Health Insurance** – comply with ACA rules and provide coverage that is reasonable and practical for doctor care, medical facilities and prescriptions
- ✘ **Life Insurance** – provide up to ten times the salary for minister's life insurance
- ✘ **Dental Insurance** – reasonable/practical
- ✘ **Disability Insurance** – what if?

COMPENSATION - OVERTIME

- ✘ **Department of Labor** – 2015 proposal to raise the overtime ceiling from \$23,660 to \$50,440 per year. This is an increase from \$455 per week to \$970 per week. This means employees who are paid \$50,440 and above who perform executive, professional or administrative duties are not eligible for overtime pay. All other employees are eligible for overtime pay. **NOTE: Not yet authorized**

RISK MANAGEMENT

Liability – a church's liability for injuries occurring on its premises will depend on the victim's status:

- 1) a **licensee** (contract worker/volunteer)
- 2) a **trespasser** (uninvited)
- 3) an **invitee** (the public)

Insurance – make sure coverage is adequate

RISK MANAGEMENT

Ascending Liability – corporate affinities and relationships will often share liability. This ascending liability is often determined by percentages.

- ✘ **Check your corporate affinities and partnerships** – make sure they are well defined

2016 COMPENSATION SURVEY

- ✘ Largest church compensation survey
- ✘ Completely confidential
- ✘ No personal information (names, SS#s)
- ✘ Socket Layer Protected against hacking
- ✘ Online survey – very user friendly
- ✘ Your participation honors others
- ✘ www.guidestone.org/compensationsurvey

RESOURCES

- ✘ www.guidestone.org/HealthcareReform2/HCR-Resources
- ✘ 2015 Church & Clergy Tax Guide, Richard Hammar
- ✘ www.ecfa.org – Resources - “Five Roads for Health Care Reimbursement”
- ✘ www.erlc.com – “Protecting Your Ministry”
- ✘ www.flbaptist.org – “Tommy Green on SCOTUS Same Sex Marriage Ruling”
- ✘ www.guidestone.org/marriageresources