19. Taxes and Other Requirements

All ELCA congregations should be included in the blanket tax determination letter from the IRS and are exempt from income taxes as organizations described in Section 501(c)(3) of the Internal Revenue Code. For copies of the June 3, 1987 determination letter, the April 5, 1988 letter from the IRS recognizing subordinate organizations and the July 13, 1988 letter assigning the group exemption number, please call the Office of the Secretary of the ELCA at 1-800-638-3522 ext 2401.

The following are other tax requirements that congregations need to be aware of.

Tax Exemption

All ELCA congregations covered under the blanket determination letter as described above are exempt from state and federal income taxes. Your 501(c)(3) status is one of your most valuable assets – please use it appropriately! It means that contributions to your congregation are tax-deductible for the giver and tax-exempt for your congregation. This tax exemption is what allows the church to operate at a lower cost than would otherwise be possible.

Unrelated Business Income Tax

Unrelated business income can come from the following:

- A trade or business regularly carried on that is not related to carrying out the exempt purpose for which the organization exists. Unrelated business income does **not** include:

    1. Activities in which virtually all of the work is performed by unpaid volunteers.
    2. Activities carried on primarily for the convenience of the members.
    3. Selling merchandise which has been received as gifts.

- Rental income or corporate stock if such property is debt financed property.

> The exception to this rule is if as long as the exempt use of the property begins within 15 years or if 85% or more of a property is used for the church's exempt purpose, the property is not treated as “debt financed property.”

If a congregation has unrelated business income that does not fit the exclusions as listed above, they must file Form 990-T. The first $1,000 of income is not subject to tax. Additional income is taxed at the corporate rate.

Annual Information Returns

Many tax exempt organizations are required to file IRS Form 990. Form 990 is an annual informational return which provides information to the IRS. All ELCA congregations are exempt from filing this form.

Donee Information Returns

In the event that a congregation receives property which is valued at $5,000 or more and the donor plans on claiming the charitable deduction, the congregation must complete and sign Part I, Section B of the donor's Form 8283 appraisal summary. Furthermore, in the event that the congregation sells, exchanges or otherwise disposes of the donated property within two years of receiving it, they must complete and submit IRS Form 8282.

Property Taxes

Normally congregations do not have to worry about paying property taxes on their sanctuaries, parsonages or a reasonable amount of surrounding land. There are however a couple of instances where the property tax exemption can be in doubt. The first situation is when the congregation owns a larger parcel of land than the state allows for exemption. Each state can have a certain limit on the number acres it allows nonprofit organizations to own before it imposes property taxes. If your congregation is looking to purchase property first find out from your state department of revenue how large of a piece of property would be exempt from property taxes in your state and then plan accordingly. Another instance that jeopardizes the exemption status would be the failure to renew the exemption. Please don’t ignore the renewal notice that comes to you each year! If you haven’t seen one please call your state department of revenue and check if this has been taken care of! The other instance of endangering the exemption status is when a congregation starts:

- using the property for a commercial use or
- allows use of the property by unqualified organizations or individuals for monetary gain or
- charges rent in excess of the organization's operation and maintenance expenses or
- ceases to use the property for an exempt activity.

State laws and rules restrict the manner in which property qualifying for exemption may be used and congregations need to adhere to these regulations or else they risk losing the property tax exemption. For further answers to specific questions about property tax exemptions for nonprofit organizations, please contact the Exempt Property Section of your State Department of Revenue.

State Sales Taxes

Many states exempt sales tax on sales made to congregations or other nonprofit entities. There is an application process to go through and the state grants a certificate of exemption and provides an exemption number for the congregation to use. Unfortunately the states in Region 1 – Washington, Oregon, Idaho and Montana do not allow this exemption. Please do keep this in mind however in the event you become a congregational treasurer in some other state.

Payroll Taxes

Just like other businesses, congregations are required to withhold social security tax from their lay employees and remit the employees' portion as well as the employer's portion along with any Federal Income tax withheld for the employee. Congregations are not subject to withholding, matching and remitting social security tax for their employees who are ordained ministers. The steps involved in complying with the withholding requirements are as follows:

1. Request that each employee fill out a W-4 form. (In the event that the employee claims more than 10 withholding allowances, a copy of the W-4 must be submitted to the IRS.) A federal I-9 form must also be filed by each employee and kept on file.
2. Compute each employee's taxable wage. This includes not only the salary but also any gifts, social security offsets given to clergy, imputed interest on low-interest (or no-interest) loans made to

employees, personal use of a church-owned vehicle, any business expense allowance given under a nonaccountable allowance arrangement, bonuses and forgiven debts.

3. Withhold the correct amount of federal income tax. Most times this is determined by using the wage bracket tables located in IRS Publication 15 (Circular E). Make sure that you receive a new "Circular E" each year so that the correct amount of federal income tax is being withheld. Clergy are exempt from federal income tax withholding but they may enter into a voluntary withholding arrangement with the congregation.
4. Withhold the correct amount of social security/medicare tax. The current rate of social security/medicare tax is 7.65%. This percentage is withheld from each employee's gross wage. In addition the congregation matches this amount. Clergy are not subject to FICA and medicare withholding. Never withhold FICA and medicare from your pastor's salary.
5. The taxes must be deposited according to the rules laid out in publication 15 (Circular E).

    a. Monthly Depositor Rule – if the total taxes for the lookback period (the fiscal year from 07/01 through 06/30 of the previous year) are $50,000 or less you are a monthly depositor and can deposit payroll taxes by the 15th day in the following month.
    b. Semiweekly Depositor Rule – if the total taxes for the lookback period (the fiscal year from 07/01 through 06/30 of the previous year) are $50,000 or more you are a semiweekly depositor and must deposit payroll taxes on the Wednesday following a Wednesday, Thursday or Friday payroll. For payroll done on Saturday, Sunday, Monday or Tuesday the payroll taxes must be deposited the following Friday.
    c. Payment with Return – You may make a payment with Form 941 instead of depositing it if you accumulate less than a $2,500 tax liability during the quarter and you pay in full with a timely filed return

    Use the Federal Tax Deposit Coupon (Form 8109) to deposit employment taxes. Or go to www.eftps.gov to find out more about using the Electronic Federal Tax Payment System.

6. All employers subject to income tax withholding must file Form 941 quarterly.

7. The congregation must prepare a W-2 form for every employee. The W-2s must be given to the employees by February 1 of the following year.

8. The congregation must prepare a W-3 form and send this along with copies of the W-2s to the Social Security Administration before March 1 of the following year.