

Chapter 9

Miscellaneous Matters

In this chapter, we will cover some important topics that have not been discussed elsewhere in this manual.

Tax Matters

Tax-exempt Status

The church's tax-exempt status is **extremely** important for two reasons.

- It means that your church does not have to pay income taxes on any of its receipts, including contributions, interest, or investment income.
- It enables the church to issue tax-deductible receipts to its donors.

Refer to Chapter 1 for instructions on getting your federal tax identification number and tax-exempt status.

Because of its importance, you must take steps to preserve your tax-exempt status. These include:

- Being careful when you issue tax-deductible receipts (see Chapter 3).
- Being careful when you generate income that does not relate to your church's tax-exempt purpose.

It is not possible to give a complete list of unrelated activities. They include operations that generate revenues the IRS defines as "unrelated business income," as well as other income (for example, royalties). Certain activities seem obviously unrelated to your church's purposes; others do not. **If in doubt**, consult a knowledgeable person in the congregation or district office. Some activities will not jeopardize the ability to issue tax-deductible receipts, but the church may be required to report and pay taxes on the amounts received.

Rental Property Income/Unrelated Business Income Tax

Generally, rent income received on real property is not unrelated business income. **Unrelated business income** is income from a business enterprise not related to your church's tax-exempt purpose. It must be derived from an activity that constitutes a trade or business that is regularly carried on and is not substantially related to the church's exempt purpose.

However, it can also come from passive income like interest, dividends, rents, and royalties that are debt-financed. Therefore, rents from debt-financed property are usually considered to be unrelated business income. **Debt-financed property** is defined as any property held to produce income and that is subject to "acquisition indebtedness," such as a mortgage, at any time during the year. However, rental income from debt-financed property is not considered unrelated business income if it fails within any of the following exceptions:

1. Substantially all (85% or more) of the property is used for exempt purposes. However, property is not considered to be used for exempt purposes simply because the income derived from the property is spent for exempt purposes. If less than 85% of the property is used for exempt purposes, only the portion of the property that is NOT used for exempt purposes is treated as unrelated debt-financed property. (You should also note that partial use of the property by other entities may have an impact on the property's real estate tax exemption, depending upon local laws and regulations.)
2. If a church acquires land for the principal purpose of using it substantially for its exempt purposes within fifteen years of the date of acquisition, then the property is not treated as unrelated debt-financed property, even though it may otherwise meet the definition. This rule (the "Neighborhood Land Rule") applies after the first five years of the 15-year period only if the church demonstrates to the I.R.S. Commissioner that it is reasonably certain that the land will be used in the described manner before the expiration of the 15-year period. In order to satisfy the Commissioner, the organization does not necessarily have to show binding contracts. However, it must at least have a definite plan detailing a specific improvement and a completion date, and some affirmative action toward the fulfillment of such a plan. This information must be forwarded to the Commissioner of Internal Revenue, Washington, D.C. 20224, for a ruling at least ninety days before the end of the fifth year after acquisition of the land. In addition, the property does NOT need to be in the immediate neighborhood of the church, an exception to requirements for other exempt organizations.

A major limitation to the Neighborhood Land Rule is that it applies with respect to any structure on the land when acquired, or to the land occupied by the structure, only so long as the intended future use of the land requires that the structure be demolished or removed in order to use the land for exempt purposes. The Neighborhood Land Rule does not apply to structures built on the land after its acquisition. This significantly increases the probability that unrelated business income taxes will be due on rental of debt-financed real property. Note that rental income from personal property is taxed unless it is a minimal portion of the real property rental income.

3. Real property received as a gift that has debt on it is excluded from the debt-financed rules for five (5) years. Real property received as a bequest that has debt on it is excluded from the debt-financed rule for ten (10) years.

The first \$1,000 of gross unrelated business income is not subject to the tax. **Gross unrelated business income** is the amount of gross receipts reduced by cost of goods sold. If the gross unrelated business income exceeds \$1,000, an IRS Form 990-T must be filed on or before the 15th day of the fifth month following the close of the fiscal year. This is true even for organizations (such as churches) that are not required to file Form 990 with the I.R.S. For most churches, who have a fiscal year end of December 31, this due date would be May 15.

Property Tax Exemption

You may be able to obtain an exemption from property taxes on the church building, parsonage, or church-run school. You should apply for it as soon as the church purchases property.

Each state or local city grants property tax exemptions differently. They also differ in the restrictions they place on use of the property. For example, some states or cities may not permit the church to rent portions of the property to others. Consult with the district office or a local attorney when you apply for property tax exemption.

Intermediate Sanctions

In 1996 Congress enacted a new law that imposed intermediate sanctions on “excess benefit transactions” related to “disqualified persons”. Simply put, if a key person in a tax-exempt organization, including churches, receives benefits from that organization that exceed the fair market value of the consideration (i.e. services rendered) received by the organization, then the IRS is authorized to assess excise taxes on the key person and members of the governance authority that approved the benefits. This generally relates to compensation but can also include other transactions like sales or leasing of property. There is a safe harbor for compensation arrangements if certain procedures are followed. Even though it could be assumed that a pastor would never receive excess benefits from the church, it is important to analyze every transaction that could ultimately benefit the pastor to ensure that this does not occur. For more information, refer to the Church and Clergy Tax Guide mentioned in the Appendix B.

Legal Matters

Legislatures are considering churches and other non-profit organizations more often today in the development and application of laws. Therefore, it is very important to keep up on legal developments. Several publications are available to aid you (see **Appendix B**). It is also wise to maintain contact with an attorney who is knowledgeable in church legal matters.

Here are some important matters to consider.

Articles and Bylaws of the C&MA

The legal charters of the C&MA, its bylaws and many other documents governing our denomination are included in the *Manual of The Christian and Missionary Alliance*. You should obtain a copy and become familiar with its contents. You can download it from the Web site or request a CD from the Office of the Corporate Secretary

Copyright Laws

The church’s most common concern with copyright laws is in the area of church music. Some churches make photocopies of music. Other churches make overheads of the words of songs and hymns, or distribute printed copies to the congregation. Because this music is the property of someone else, *copying it is illegal*, unless you have permission. More importantly, you do not want to break the law or rob Christian songwriters of their rightful income.

Richard Hammar, attorney-at-law, suggests the following steps to avoid copyright infringement:

- Purchase all music. Don’t copy anything.

- Get written permission from the copyright owner for each song you use and pay the required fees.
- Follow the complex “compulsory license procedure” for recorded music. Or,
- Purchase a license that provides “blanket” permission. This permits you to use a specified library of songs from cooperating publishers and copyright owners for congregational use.

One source of copyright licenses is *Christian Copyright Licensing, Inc.*, 17201 NE Sacramento Street Portland, OR 97230 . You can call them toll-free at 1-800-234-2446 or e-mail them at sales@ccli.com for an application.

Labor Laws

The church has some special privileges in the hiring of staff. These include the right to hire only Christians. However, you are not exempt from all discrimination laws.

The church should:

- Base all hiring practices on Christian principles
- Use common sense
- Document the church’s policies of hiring, benefits, and procedures that affect the employees

Explain the policies to all the staff and have them available for reference. When you develop your policies, have the church’s attorney or the district office review them.

One important legal requirement is relatively new. *All* the staff, *including pastors*, who are hired after November 6, 1986, must fill out form I-9. The United States Immigration and Naturalization Service (INS) requires this form for everyone, including native-born citizens. It must be kept on file at the church for three years after the date of hiring, or one year after the date that the employee leaves, whichever is later. The form requires the employee or pastor to present certain identification information to the church when you hire them. If these forms are not on file, have the pastor and staff complete them as soon as possible. You can get a supply of the forms and a handbook with additional information from your local INS office.

Annual Certification of Racial Nondiscrimination

Every organization that claims exemption from federal income taxes under section 501(c)(3) of the tax code AND that operates, supervises, or controls a PRIVATE SCHOOL (or schools) must file a certificate of racial nondiscrimination (Form 5578) each year. A “private school” is defined as an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly conducted. The term includes preschools, and primary, secondary, preparatory, or high schools, and colleges and universities, whether operated as a separate legal entity or an activity of a church. [It does NOT include Sunday schools.] The certificate is due by the 15th day of the fifth month following the end of the organization’s fiscal

year. Again, for most churches, who have a fiscal year end of December 31, this due date would be May 15.

Political Activities

In a recent case, a church in New York lost its tax-exempt status because of its involvement in political activities. The church had paid for ads criticizing President Clinton's positions on abortion and other social issues before the election in 1992. While this I.R.S. action is very drastic and unusual, it is important to remember that churches are prohibited from participating or intervening in (including the publishing or distributing of statements) political campaigns on behalf of any candidate for public office. This would include both statements for or against a particular candidate. These rules apply equally to national, state, and local elections and candidates.

A church can have political candidates address the congregation as long as overt campaign activities are avoided, the same opportunity is afforded all other qualified candidates for the same office, and the congregation is informed before or after the speech that the church does not endorse any candidate for public office. Other activities such as voter education are okay as long as they are neutral in content and format. The church may publicize its position on social issues, but must not link that position to specific candidates.

The bottom line is that a church has to be very careful in walking the line between addressing an issue and endorsing or criticizing a particular candidate and his position on an issue. Pastors have to be particularly careful in making statements of this type since they may be viewed as an agent of the church. If the pastor does wish to make a political endorsement despite the risk, he should at least qualify his remarks by explicitly stating that they are being made in a private capacity and not as an agent of the church, and that the church has not taken any action to endorse or express its opposition to any candidate.

National Office Resources and Services

Division of Operations/Finance

The Division of Operations/Finance of the C&MA encompasses many functions that support the worldwide ministry of the Alliance. We have described some of these elsewhere in this book. Others are listed on the C&MA Web site. We encourage you to access the C&MA Web site on occasion for new information or current updates not included in this manual.

You already know that you will have contact with the Division of Operations/Finance when sending in your monthly check for the Great Commission Fund. In addition, you should be aware of the following services:

Employee Benefits

- The C&MA Retirement Plan of the C&MA is administered by the Division. This includes receipting church contributions, paying benefits, managing fund assets, and overseeing the plan design and funding.

- A national 403(b) program is available to all Alliance official workers.
- A self-insured medical and dental insurance program and a national life insurance program is available to official workers if their district is a participant.

The Office of the Corporate Secretary

The Office of the Corporate Secretary oversees the administration of the C&MA's group tax exemption letter. Should you have questions related to your church tax exempt status, please contact this office. This office also includes the Office of Legal Services which provides legal, tax, and risk management services to the National Office. This office also assists districts and churches on a limited basis particularly in the area of federal tax issues. For church focused information see the C&MA Web site at www.cmalliance.org/resources/churchrisk.htm if you have general questions.

Alliance Development Fund, Inc.

This subsidiary provides excellent investment opportunities for Alliance churches, workers and constituents. These include savings certificates, Individual Retirement Accounts (IRAs), a 403(b), Church Agreement Accounts, and Shell Point Village Agreement Accounts. ADF loans the funds to Alliance churches, districts and auxiliaries to buy property or construct buildings. ADF also assists churches in the area of capital fund raising. For a prospectus, call the ADF Office, at 888-878-3060 or visit their Web site at www.adf-inc.com

The Orchard Foundation, Inc.

The Orchard Foundation provides various methods for deferred giving to Alliance ministries. Representatives are available to help the congregation with individual financial planning. Call 888-689-6300 or e-mail them at steward@tof.cmalliance.org.

National Office Data Management Office

National Church Ministries keeps on file your annual reports. Sometimes, churches lose this information during transitions. You may need statistics on the history of your church in order to get bank loans. Call the National Office Data Management Office for help.

You can get additional information on any of the above by contacting the National Office at 719-599-5999.