

# Hiring Guide

## Step 1

### Are you hiring an employee or a contractor?

Work your way through the IRS 20 Factor Test on page 2 marking each column as the question indicates. You will have some checks in each column. After answering all the questions, the column with more check marks indicates the type of worker you are hiring (EE = employee; SE = self employed contractor).

<b>If hiring a self-employed contractor:</b>	<b>If hiring an employee:</b>
Request a W-9 from the individual (or company). Find a W9 at <a href="http://irs.gov">irs.gov</a>	Request a W-4 from the individual. Find a W4 at <a href="http://irs.gov">irs.gov</a>
Pay based on invoices they submit or the contract you've agreed to.	Request an I-9 from the individual. Note that this form requires verification of specific identity documents. Find an I9 at <a href="http://uscis.gov">uscis.gov</a>
Do not withhold any taxes. It is the contractor's responsibility to keep track of what they have earned, report it, calculate and pay associated taxes.	Begin a Personnel file that will include such things as emergency contact information, job application and/or resume, job description, performance evaluations, benefit enrollment documents, etc.
If payments total \$600 or more per year, report to contractor and IRS early in the following year using Form 1099-MISC to individuals (due by 1/31) and Form 1096 (due 2/28) to summarize 1099s to IRS.	Continue questions below.

While it may be tempting to identify a worker as self-employed for ease of payment and reporting, the fines and penalties for mis-classifying workers is steep.

## Step 2

### Does the person you are hiring hold a clergy credential (ordination, commissioning, ministry license)?

<b>Yes, s/he has a credential.</b>	<b>No, s/he does not have a credential.</b>
See separate document	Go to page 3.

## DETERMINING A WORKER'S STATUS USING THE IRS 20-FACTOR TEST

Factor	EE	SE
1. Instructions. Is the worker required to comply with instructions about when, where, and how to work? If so, check EE; if not, check SE.		
2. Training. Is the worker trained by an experienced employee or by other means? If so, check EE; if not, check SE.		
3. Integration. Are the worker's services integrated into the employer's business operations? If so, check EE; if not, check SE.		
4. Services rendered personally. Must services be rendered personally by the worker? If so, check EE. If the worker may hire a substitute to perform the work without the church's knowledge or consent, check SE.		
5. Hiring, supervising, and paying assistants. Does the church hire, supervise, and pay assistants to assist the worker? If so, check EE. If the worker hires, supervises, and pays his or her own assistants, check SE.		
6. Continuing relationship. Is there a continuing working relationship between the church and the worker? If so, check EE; if not, check SE.		
7. Setting hours of work. Does the employer establish set hours of work? If so, check EE. Is the worker a "master of his own time"? If so, check SE.		
8. Full time required. Must the worker devote full time to the church's business? If so, check EE. If the worker is hired "by the job" and may offer his or her services to other employers, check SE.		
9. Doing work on employer's premises. If the worker must perform his or her duties on the church's premises, check EE. If not, check SE.		
10. Order or sequence of work. If the worker must perform services in an order or sequence set by the church, check EE. If not, check SE.		
11. Oral or written reports. If the worker is required to submit regular oral or written reports to the employer, check EE. If not, check SE.		
12. Payment by the hour, week, month. If the worker is paid by the hour, week, or month, check EE. If paid by the job on a lump-sum basis (even if paid in installments), check SE.		
13. Payment of business expenses. Does the church pay the worker's business expenses? If so, check EE; if not, check SE.		
14. Furnishing of tools and materials. If the church furnishes tools and materials for the worker's use, check EE. If the worker provides his or her own tools and materials, check EE.		
15. Significant investment. Does the church furnish all necessary facilities (equipment and premises)? If so, check EE; if not, check SE.		
16. Realization of profit or loss. May the worker realize a profit or suffer a loss as a result of his or her services? If so, check SE; if not, check EE.		
17. Working for more than one organization at a time. Does the worker perform services for a number of organizations besides your church? If so, check SE. If not, check EE.		
18. Making services available to the general public. Does the worker make his or her services available to the general public (by having his or her own office and assistants, holding a business license, advertising in newspapers and telephone directories)? If so, check SE; if not, check EE.		
19. Right to discharge. Can the church dismiss the worker at any time? If so, check EE; if not, check SE. Self-employed persons usually cannot be fired if they produce results that fulfill their contract specifications.		
20. Right to resign. Can the worker end the relationship with the church at any time without incurring liability? If so, check EE; if not, check SE. A self-employed person usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete the job.		

## Paying an employee

The decision to create a position has been made with consideration about the cost implications. These conversations are often in terms of an annual or weekly compensation rate. While an annual (or weekly) rate is convenient for planning it is not always acceptable as a pay rate. The Department of Labor and specifically the Fair Labor Standards Act governs minimum wage and overtime rules that must be followed.

### Is the person you are hiring Exempt or Non-exempt?

Review the requirements for each of the DOL exemption categories on page 4 to know whether your employee is Exempt (from minimum wage and overtime rules) or Non-exempt.

<b>If hiring a non-exempt employee:</b>	<b>If hiring an exempt employee:</b>
Agree to a fair hourly wage	Agree to a fair annual salary
Pay employee based on submitted (and reviewed/approved) time sheet including overtime if applicable	Pay employee the same amount each pay period
Withhold 6.2% for Social Security tax and 1.45% for Medicare tax	
Withhold Federal and State income taxes based on W4 info as applicable. Find Federal tax tables at <a href="http://irs.gov">irs.gov</a> search Pub 15	
Deposit withheld Federal and State taxes adding employer taxes (6.2% Social Security and 1.45% Medicare) to the Federal deposit. More info at <a href="http://irs.gov">irs.gov</a> search 941 instructions	
File Quarterly 941 (typically due April 30, July 31, October 31 and January 31). States usually have a similar reporting requirement.	
Provide employee with W2 reporting annual earnings and withholding by January 31; provide W3 summarizing W2s to IRS by February 28	

Note that churches are exempt from Federal Unemployment Tax and often (though not always) from State Unemployment Tax.

## Department of Labor Exemption categories (full list at [dol.gov](http://dol.gov))

### **Executive Exemption**

To qualify for the executive employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week (\$684 per week effective 1/1/20);
- The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

### **Administrative Exemptions**

To qualify for the administrative employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week (\$684 per week effective 1/1/20) ;
- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

### **Professional Exemption**

To qualify for the learned professional employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week (\$684 per week effective 1/1/20) ;
- The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for the creative professional employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week (\$684 per week effective 1/1/20) ;
- The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.