

## CLASSIFICATION OF INDEPENDENT CONTRACTOR VS EMPLOYEE

### Policy Statement:

The Diocese of Rockville Centre is committed to comply, and to assist parishes to comply, with all applicable laws, including laws and regulations pertaining to the proper classification of individuals as independent contractors or employees. Before you can make an accurate determination as to the classification of a payee, you must first examine the business relationship that exists between the Parish/School and the individual performing the services for your organization. Guidance from the Internal Revenue Service (the "IRS") indicates that the degree of **control and direction** must be considered. The IRS outlines three factors in making this determination:

- ✓ Behavioral – does the Church/School control or have the right to control what the worker does and how the worker does his/her job;
- ✓ Financial – does the Church/School control the business aspects of the worker's job; and
- ✓ Type of Relationship – Are there written contracts or employee-type benefits?

If an organization misclassifies an employee as an independent contractor, the financial consequences can be significant – i.e.: back payment of employment taxes, penalties, and interest.

Obviously, many vendor relationships are clear-cut. Individuals who are retained by the parish – such as a contractor, landscaper, painter – who have their own businesses, determine their own work schedules, and generally provide services to other entities – are certainly independent contractors. Many other categories of vendors are not quite as easily defined. The Diocese has examined the following categories of vendor payments, and recommendation for each is outlined below:

### Musicians and Cantors

The IRS in recent private letter rulings has made their position clear on the proper tax treatment of musicians and cantors. In compliance with the IRS rulings, under the large majority of circumstances, parishes should be treating Music Professionals as employees – **NOT** as independent contractors.

### Visiting Priests

Members of the clergy are required to include in their income offerings and fees they receive for marriages, baptisms, funerals, confirmations, masses, etc. Priests that are regularly assigned to your parish or those who have been approved for summer assignments (obtained their faculties) are included on the parish payroll and are employees of the church. However, if the parish requires the assistance of a visiting priest to cover masses, those priests are considered independent contractors. Independent contractor status also applies to a Bishop who performs confirmation services for your parish.

Should a priest elect to then take his earnings and donate them to an organization, this in no way relieves the Parish of its reporting responsibility as it relates to that individual (e.g.: issuance of 1099s to those vendors making \$600 or greater in a calendar year).

If a parish issues a check to an independent contractor (priest or lay person), they are required to adhere to IRS reporting requirements.

### **CYO and CMSAA Referees**

Referees are NOT considered employees of the organization, but should be paid as independent contractors. Referees are required to include these fees in income, and should an organization pay \$600 or greater to any one referee in a calendar year, they should issue that individual a 1099. Therefore, proper identification of payments for referees, **by individual** is necessary on the books of the Parish.

### **Processing of Payments:**

As with all independent contractors, payments should not be processed unless the vendor is an approved vendor. The rules for any disbursement processing from the Parish and School business office include:

- ✓ Proper documentation – only the pastor and those specifically designated by the pastor are authorized to make purchases or commit resources for the Parish.
- ✓ Only disbursements pertinent to the business of the Parish should be authorized.
- ✓ A written and approved check request is required **before** a check may be issued.
- ✓ A Form W-9 should be completed prior to disbursement to any independent contractor. As with all vendor forms W9s, this is retained in the Parish Business Office.

**Any individual or partnership who receives \$600 or more from the Parish/School in a calendar year should be issued a 1099-Miscellaneous.** The Parish/School should file an annual 1096 and Form 1099 with the IRS, as appropriate. (Note: In some instances, payments for services made to corporations may be subject to reporting as well. Obtain a W-9 from your vendors, and consult with your Parish Administrative Support Team if you are uncertain about reporting requirements).

**The IRS does not exempt an organization of its filing requirements due to clerical stress or hardship.** The Parish/School must institute sound financial controls and bookkeeping procedures to ensure that payments are properly recorded and reported when required.

This guidance is not meant to be all inclusive, and should a situation arise where you require assistance or direction, please contact your **Parish Administrative Support Team**.

**RISK MANAGEMENT ISSUES**

As with all vendor arrangements, please consult Diocesan Risk Management requirements before committing to any contractual agreements.

**VIRTUS & BACKGROUND SCREENING**

Parishes/Schools are reminded to consult the Office for the Protection of Children and Young People, and its policies and guidelines as they relate to the screening of church personnel, contractors, and volunteers.

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