

Chapter 12: Tax and Compliance Matters Unique to States

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12.100:

Introduction

Each state has unique laws for various taxes imposed by the state or local municipality. The first part of this chapter is a brief explanation of the most common taxes imposed by these local governments. The church and school are exempt from most of these taxes, but, in some cases, they must pay taxes like any other organization. In some cases the church may be exempt from payroll tax as a religious institution but the school may not be because it is treated as an educational institution.

The second part of this chapter is material prepared by and available from your district office. It provides information and forms for compliance with the laws in your state. Tax information for your state begins at 12.900.

12.200:

Annual Reporting

In some states, nonprofit corporations are required to file reports with the secretary of state's office annually or biennially. (Contact the secretary of state's office in your state to determine your filing requirements.) The report generally is brief and requires, among other things, the purpose of the organization, the names and addresses of the board of directors or governing body, and the name of the registered agent. A nominal fee sometimes accompanies the report.

Failure to file the annual or biennial report imposes penalties that differ by state. Some states impose only a nominal fine, but others may call for cancellation of a corporation's certificate of incorporation, which has the effect of terminating the existence of the corporation.

12.300:

State/Municipal Taxes

12.305:

State Income Tax

All churches and schools are exempt from paying corporate state income tax because of the federal exemption under IRC Section 501(c)(3).

However, the organization's employees are not exempt from paying state income tax. In those states with an income tax, the church or school may be required to withhold state income tax from its employees' payroll checks as it does for the federal income tax, and in some states the tax may be withheld from the "minister of the Gospel."

12.310:

Property Taxes

Real and personal property taxes may be imposed by the state, county or city where the church or school is located. In most cases churches and schools are exempt from these taxes, but the exemption laws vary by taxing authority within some states. In some states the church and school may retain their exemption as long as they use the property for their tax-exempt purpose. In other states, the organization may be required to file a periodic exemption form.

The amount of the exemption allowed for the church building, school building, church or school grounds, parsonage, undeveloped land, or personal property and any nonexempt manner in which they are used, varies from state to state.

Usually, churches are required to pay special assessment taxes for streets, sewers and similar improvements.

12.315:

Sales and Use Tax Payments

In some states, not-for-profit organizations are exempt from the state- or county-imposed sales tax for goods **purchased by** the organization. In other states schools may be exempt from sales tax payments while churches are required to pay this tax. See Section 12.318 for information regarding your state or call your district office for information.

Where sales taxes are imposed on purchases by not-for-profit organizations, states may also collect a Compensating Use Tax for goods purchased in another state. Although generally it is the seller's responsibility to collect this tax, the end user has the responsibility of reporting such purchases and remitting any additional tax (if applicable) to the state in which they do business. Accordingly, you may have a use tax liability on the goods that you received from out-of-state. If you're not certain whether such transactions are subject to use tax in your state, we recommend contacting your Department of Revenue for a determination. Churches located near state borders where purchases are made in both states may need to be aware of this compensating use tax.

12.318:

Process of Acquiring an Exemption from Sales Tax Payments

Among those states that exempt **purchases by** churches and schools from sales taxes (*refer to Table 12-1*), some require the organizations to apply to the state's Department of Revenue for the exemption. Once the application has been processed, the state will respond by returning either a letter or certificate of exemption. A copy of the document should be made available to each vendor upon request. Other states simply require the exempt entity to provide the vendor directly with a certification of its exemption.

| Sales Tax Exemptions for Purchases by Churches/Schools (some states require registration) | | | | |
|--|------------------------------|----------------|--|---|
| State | Type of organization: | | Register for exempt certificate? | <i>The information in this table must not be relied on for accuracy or completeness. Instead, contact your state's Department of Revenue to find out whether your organization qualifies for exemption and under what conditions.</i> Comments: |
| | Churches | Schools | Y=yes N=no N/A=not applicable | |
| Alabama | | ✓ | Y | Must renew annually |
| Alaska | Does not impose sales tax | | | |
| Arizona | | * | N | *limited to food purchases by child care centers; must apply annually for letter of exemption |
| Arkansas | Not exempt | | N/A | |
| California | Not exempt | | N/A | |
| Colorado | ✓ | ✓ | Y | Certificate valid indefinitely |
| Connecticut | * | * | Y | Must renew every 3 years, *only if located in CT |
| Delaware | Does not impose sales tax | | | |
| DC | ✓ | ✓ | Y | Certificate valid indefinitely |
| Florida | ✓ | ✓ | Y | Must renew every 5 years |
| Georgia | Not exempt | | N/A | |
| Hawaii | Not exempt | | N/A | |
| Idaho | * | ✓ | N | Claim provided directly to vendor (Form ST 101); *limited to food for church members and church food bank |
| Illinois | ✓ | ✓ | Y | Must renew every 5 years |
| Indiana | ✓ | ✓ | N | Claim provided to vendor |
| Iowa | ✓ | ✓ | N | Claim provided directly to vendor |
| Kansas | ✓ | ✓ | Y | Must renew every 5 years |
| Kentucky | ✓ | ✓ | Y | Certificate valid indefinitely |
| Louisiana | Not exempt | | N/A | |
| Maine | ✓ | ✓ | Y | Certificate valid indefinitely |
| Maryland | ✓ | ✓ | Y | Must be located in Maryland or surrounding states to qualify; must renew every 5 years |
| Massachusetts | ✓ | ✓ | Y | Must renew every 5 years |
| Michigan | ✓ | ✓ | N | |
| Minnesota | ✓ | ✓ | Y | Certificate valid indefinitely |
| Mississippi | * | ✓ | Y | Certificate valid indefinitely; *limited to church utilities |
| Missouri | ✓ | ✓ | Y | Certificate valid indefinitely |
| Montana | Does not impose sales tax | | | |
| Nebraska | ✓ | ✓ | Y | Certificate valid indefinitely |
| Nevada | ✓ | ✓ | Y | Must renew every 5 years |
| New Hampshire | Does not impose sales tax | | | |
| New Jersey | ✓ | ✓ | Y | Certificate valid indefinitely |
| New Mexico | ✓ | ✓ | Y | Certificate valid indefinitely |
| New York | ✓ | ✓ | Y | Certificate valid indefinitely |
| North Carolina | | | N/A | |
| North Dakota | ✓ | ✓ | Y | Certificate valid indefinitely |
| Ohio | | ✓ | N | Claim provided directly to vendor |
| Oklahoma | ✓ | ✓ | Y | Renew certificate every 3 years; *school exemptions are severely restricted |
| Oregon | Does not impose sales tax | | | |
| Pennsylvania | ✓ | ✓ | Y | Certificate valid indefinitely |
| Rhode Island | ✓ | ✓ | Y | Certificate valid indefinitely |
| South Carolina | | ✓ | Y | Limited to textbooks, library media; Certificate valid indefinitely |
| South Dakota | ✓ | ✓ | Y | Must renew annually |
| Tennessee | ✓ | ✓ | Y | Certificate valid indefinitely |
| Texas | ✓ | ✓ | Y | Certificate valid indefinitely |
| Utah | ✓ | ✓ | Y | Certificate valid indefinitely |
| Virginia | ✓ | ✓ | Y | Certificate valid indefinitely |
| Vermont | ✓ | ✓ | Y | Certificate valid indefinitely |
| Washington | Not exempt | | N/A | |
| West Virginia | ✓ | ✓ | Y | Must renew with renewal of business registration |
| Wisconsin | ✓ | ✓ | Y | Certificate valid indefinitely |
| Wyoming | ✓ | ✓ | Y | Certificate valid indefinitely |

TABLE 12-1

12.320:

Sales Tax Collections

Some churches and schools may have sales of tangible personal property (e.g., books) that are subject to the collection of sales tax. States may also impose such taxes on dinners, bake sales, garage sales, auctions, etc. The organization may be required to collect the tax and forward it to the state.

In most cases, the organization will be able to obtain an exemption. In other cases the dinners, etc., are considered incidental sales and, unless conducted regularly the state does not enforce the tax.

Different sales tax liabilities may also apply to incidental sales based on whether the goods sold are donated or purchased for resale.

12.325:

Franchise or Business Tax

Unless the church or school has unrelated business income (see Chapter 11), the organization will be exempt from business taxes. However, an unrelated business activity may require the church to file income tax returns, as well as, franchise or business tax reports. In some states a franchise fee or business tax is also required. These taxes are not to be confused with the periodic nonprofit report which also may be required by the state. (See 13.400 for more information on corporate reporting.)

12.400:

Unemployment Tax

The church and school are exempt from federal unemployment tax because they are IRC Section 501(c)(3) exempt organizations.

However, unemployment tax is primarily a state responsibility, and, in some states, the laws are different for churches and schools. In most cases, all church and school employees are not eligible for coverage under the state unemployment laws because the organization is exempt from the tax or has elected not to participate. If the organization does not participate in the tax, the organization's employee handbook should state that its employees are not eligible for an unemployment claim should they decide to leave the employment of the church or school.

SAMPLE STATEMENT:

The Synod and its entities, as a church or church-operated school, are exempt from the Unemployment Compensation Act. This means that any employee who terminates or is terminated and is unable to find new employment is not *eligible* to collect federal unemployment insurance benefits.

However, some states allow "self-insurance" funds for a claim by a former employee if the employer agrees to reimburse the state fund.

12.500:

Worker's Compensation

Worker's Compensation is a statutory insurance provided by the employer for the benefit of employees injured on the job. Very few states allow an exemption to a church or school for this insurance. In most states, the church and school are required to pay a premium for the "minister of the Gospel" and for any other employee. (See 26.245 for more information on Worker's Compensation.) Some states may permit grouping of employers for worker's compensation insurance. Since there is usually a basic fee for this insurance, there may be a saving by grouping a number of churches. This could be done across denominations.

12.600:

Listing of State Withholding Tax Offices/ Departments of Revenue

Alabama

revenue.alabama.gov
Department of Revenue
Withholding Tax Section
PO Box 327480
Montgomery, AL 36132-7480
(334) 242-1300

Alaska

No income tax

Arizona

azdor.gov
Department of Revenue
Withholding Division
P.O. Box 29009
Phoenix, AZ 85038-9009
(602) 255-3381

Arkansas

state.ar.us/dfa
Department of Finance and
Administration
Withholding Tax Branch
PO Box 8055
Little Rock, AR 72203-8055
(501) 682-7290

California

edd.ca.gov
Employment Development
Department
Taxpayer Assistance Center
(888) 745-3886

Colorado

colorado.gov/revenue
Department of Revenue
1375 Sherman St.
Denver, CO 80261-0009
(303) 238-7378

Connecticut

ct.gov/drs
Department of Revenue Services
25 Sigourney St.
Hartford, CT 06106
(860) 297-5962

Delaware

revenue.delaware.gov
Division of Revenue
Carvel State Building
820 N. French St.
Wilmington, DE 19801
(302) 577-8779

District of Columbia

otr.cfo.dc.gov
Department of Tax and Revenue
1101 4th St. SW, Suite W270
Washington, DC 20024
(202) 727-4829

Florida

No income tax

Georgia

dor.georgia.gov
Department of Revenue
Withholding Tax Unit
PO Box 49432
Atlanta, GA 30359
(877) 423-6711

Hawaii

tax.hawaii.gov
Department of Taxation
Income Tax Division
PO Box 259
Honolulu, HI 96809-0259
(808) 587-4242

Idaho

tax.idaho.gov
State Tax Commission
PO Box 36
Boise, ID 83722-0410
(208) 334-7660

Illinois

revenue.state.il.us
Department of Revenue
PO Box 19447
Springfield, IL 62794-9447
(217) 782-3336

Indiana

state.in.us/dor
Department of Revenue
P.O. Box 7222
Indianapolis, IN 46207-7222
(317) 233-4016

Iowa

state.ia.us/tax
Taxpayer Services
Department of Revenue
PO Box 10465
Des Moines, IA 50306-0465
(515) 281-3114

Kansas

ksrevenue.org
Department of Revenue
Taxpayer Assistance
Docking State Office Building
915 S.W. Harrison St., Room 150
Topeka, KS 66612
(785) 368-8222

Kentucky

revenue.ky.gov
Kentucky Department of Revenue
200 Fair Oaks Lane
Frankfort, KY 40620
(502) 564-4581

Louisiana

rev.state.la.us
Department of Revenue
PO Box 91017
Baton Rouge, LA 70821-9017
(225) 219-0102

Maine

state.me.us/revenue
Maine Revenue Services
P.O. Box 9107
Augusta, ME 04332-9107
(207) 626-8475

Maryland

business.marylandtaxes.com
Comptroller of Maryland
110 Carroll St.
Revenue Administration Division
Annapolis, MD 21411-0001
(410) 260-7980

Massachusetts
dor.state.ma.us
Department of Revenue,
Customer Service Bureau
PO Box 7010
Boston, MA 02204
(617) 887-6367

Michigan
michigan.gov/treasury
Customer Contact Division
Department of Treasury
Lansing, MI 48922
(517) 636-6925

Minnesota
taxes.state.mn.us
Department of Revenue
Mail Station 6501
St. Paul, MN 55146-6501
(651) 282-9999

Mississippi
dor.ms.gov
State Tax Commission
Income Tax Bureau
PO Box 960
Jackson, MS 39205-0960
(601) 923-7088

Missouri
dor.mo.gov
Department of Revenue
Taxation Bureau
PO Box 3375
Jefferson City, MO 65105-3375
(573) 751-8750

Montana
revenue.mt.gov
Department of Revenue
125 N. Roberts
PO Box 5835
Helena, MT 59604-5835
(406) 444-6900

Nebraska
revenue.nebraska.gov
Department of Revenue
PO Box 94818
Lincoln, NE 68509-4818
(402) 471-5729

Nevada
No income tax

New Hampshire
No income tax

New Jersey
nj.gov/treasury/revenue
Department of Treasury
Division of Taxation
PO Box 269
Trenton, NJ 08695-0269
(609) 292-6748

New Mexico
tax.newmexico.gov
Taxation and Revenue Department
1100 South St. Francis Dr.
Santa Fe, NM 87504
(505) 827-0700

New York
tax.ny.gov
NYS Tax Department
(518) 485-6654

North Carolina
dornc.com
Department of Revenue
PO Box 25000
Raleigh, NC 27640-0640
(877) 252-3052

North Dakota
nd.gov/tax/
State Tax Commissioner
State Capitol
600 E. Boulevard Ave.
Bismarck, ND 58505-0599
(701) 328-1248

Ohio
tax.ohio.gov
Department of Taxation
Central Registration Unit
PO Box 182215
Columbus, OH 43218-2215
(888) 405-4089

Oklahoma
tax.ok.gov
Tax Commission
Withholding Tax Division
2501 N. Lincoln Blvd.
Oklahoma City, OK 73194
(405) 521-3160

Oregon
oregon.gov/DOR/
Department of Revenue
955 Center St. Northeast
Salem, OR 97301-2555
(503) 945-8091

Pennsylvania
revenue.pa.us
Bureau of Business Trust Fund Taxes
Dept. 280901
Harrisburg, PA 17128-0901
(717) 787-1064

Rhode Island
tax.state.ri.us
Division of Taxation
One Capital Hill
Providence, RI 02908
(401) 574-8829

South Carolina
dor.sc.gov
Department of Revenue
Withholding
Columbia, SC 29214-0004
(844) 898-8542 Option 4

South Dakota
No income tax

Tennessee
No income tax

Texas
No income tax

Utah
tax.utah.gov
State Tax Commission
210 N. 1950 West
Salt Lake City, UT 84134
(801) 297-2200

Vermont
tax.vermont.gov
Department of Taxes
133 State St.
Montpelier, VT 05633-1401
(802) 828-2551 Option 3

Virginia

tax.virginia.gov

Department of Taxation

Division of Income Tax Withholding

PO Box 1115

Richmond, VA 23218-1115

(804) 367-8037

Washington

No income tax

West Virginia

tax.wv.gov

West Virginia State Tax Department

Taxpayer Services Division

PO Box 3784

Charleston, WV 25337-3784

(304) 558-3333

Wisconsin

revenue.wi.gov

Department of Revenue

PO Box 8902

Madison, WI 53708

(608) 266-2776

Wyoming

No income tax

12.700:

New Hire Reporting

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires employers to report certain information on their newly-hired employees to a designated state agency. Penalties may be imposed on employers who fail to comply with these rules.

The majority of the information you will be submitting is already being collected when a new employee completes a W-4 form. Each New Hire report must contain the following elements: employee name, employee address and Social Security number, employer's name, employer's address and employer identification number. Some states may require additional data.

Federal law mandates that New Hires be reported within 20 days of the date of hire. However, states are given the option of establishing reporting timeframes that may be shorter than 20 days. You must adhere to the reporting timeframe of the state to which you report.

Because the reporting methods, due dates and data requirements vary from state to state, be sure to check with your state to learn of its requirements. For state filing requirements go to acf.hhs.gov/css/resource/state-new-hire-reporting-congacts-and-program-requirements and the "State New Hire Reporting Contacts and Program Requirements matrix". For state websites go to acf.hhs.gov/css/resource/state-new-hire-reporting-websites.

12.800:

Raffles, Bingo and Other Games of Chance

In planning a fund-raising event, a congregation should consider the application of laws regulating charitable solicitation in each state in which the game of chance is to be conducted. Courts and other legal authorities have consistently defined games of chance under State law as consisting of three parts: 1) a prize; 2) the element of chance; and 3) consideration, or payment for the right to participate. The importance of these three is that if one can be eliminated (typically chance or payment), then usually the event will not be considered a game of chance and therefore not subject to gaming regulations. For information about the taxable consequences of gaming events, refer to Chapter 11.

12.900:

Information and Forms for Compliance Locally

Contact your district's business manager or treasurer for your state's specific tax information and other information.

