Employee or Independent Contractor?

In determining whether someone is an employee or an independent contractor there are two publications that you need to refer to:

First, **IRS Publication 15 - Employer's Tax Guide** offers some guidelines to follow. Generally, a worker who performs services for you is your employee if you have control over what will be done and how it will be done, and they use your tools (computers, etc.). It does not matter if the employee works full or part time. To access this document, visit *www.irs.gov* and search for the publication title.

Second, **The Manual of Business Methods in Church Affairs**, published by the National Church, is another reference point that provides very detailed guidance on this area. It explicitly states that the following are normally employees: all rectors, vicars, and their assistants; Interim clergy and regularly employed supply clergy who consistently work at the same congregation; and Secretaries, sextons, directors of Christian education, childcare providers who are not volunteers (including teenagers), yard maintenance workers (including teenagers), organist, and choir director. All employees must receive a W-2, including clergy. A link to the 2012 Manual is available in the Finance & Benefits section of the EDWM website at *www.edwm.org.*

You are probably asking what the importance is for 2006, since you just did 1099s and W-2s for last year. Well, I am glad you asked! If a worker is deemed to be an employee, the employer is required to withhold and match social security and medicare taxes for all non-clergy employees. The consequence of treating an employee as an independent contractor is that you may be held liable for employment taxes for that worker (15.3%). This is to everyone's benefit to handle this in accordance with IRS and church guidelines from this date forward.

I would be happy to answer any questions you may have and look forward to working with you.

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