

# LCMS Northern Illinois District

2301 S. Wolf Road, Hillside, Illinois, 60162

Memo From:

Rev. Dan Gilbert, District President

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It has come to our attention that several of our congregations have developed a practice to contract rostered workers instead of calling them. This practice is problematic with the Doctrine and Practice of the Call as well as the position of the Synod's Council of Presidents. It also creates a housing allowance issue for the worker AND a payroll problem for the congregation since the IRS deems rostered workers eligible for housing allowance regardless of the actions of the congregation to call or contract.

This letter is intended to inform congregations of the "Official position of the Synod" and also to suggest some solutions going forward.

## **Here are excerpts from the Council of President's manual which address the issue:**

On the "Diploma of Vocation" by which a congregation extends a call to an ordained or commissioned minister, the congregation, in the name of and by the authority of the Triune God, asks the church worker to assume the responsibilities of the office to which the church worker is called and obligates the church worker faithfully to perform the duties of that office according to the Word of God and the Lutheran Confessions. So that the church worker is able to fulfill these duties and responsibilities, the congregation also obligates itself to cooperate with the church worker and to support him or her in word and deed, and in prayer.

### The Position of the Synod

Res. 6-14 of the 1981 Convention of the Synod states, "A solemn call is an official request, offer, or agreement extended by a calling body in the name of the triune God to a person eligible to receive such a call into an educational ministry of the LCMS. Offers extended to such eligible persons but erroneously referred to as "appointments" or "contracts" are also to be considered calls." Therefore, the person would continue to hold membership in the Synod as an Active Member. (See also CCM Opinion 00-2193, question 6)

Section 1.120, ". . . it should be clear in the following sections that those persons in ministry on Synod's roster are to be treated as Ministers of the Gospel for payroll tax purposes, regardless of whether or not they execute a contract or call document for full-time or part-time status." Therefore, the worker is eligible to take advantage of the housing deduction allowed by the IRS to Ministers of Religion—Ordained and Commissioned, **AND** is also required to pay the self-employment tax required by Ministers of Religion.

- 1) It should be communicated clearly to congregations seeking to employ rostered Commissioned Ministers (Active Status, Candidate Status, or Non-Candidate Status) that their offer, regardless of the terminology used (e.g. a call, a contract, or an appointment), will be considered to be a call and should be treated as such by the congregation by allowing the worker to claim an IRS housing deduction and by cooperating with the worker's payment of IRS self-employment tax as a Minister of Religion. In doing so, the worker will assume the responsibilities of membership and be entitled to all of the privileges of membership in the Synod.

- 2) It should be noted that rostering the worker as “Active” does not change the terms of the “contract” or “appointment” offered by the congregation/school. They become the terms of the call, except where adjustment may be necessary to accommodate IRS housing deduction and self-employment tax benefits or requirements.
- 3) In all cases where a rostered worker (Active Status, Candidate Status, or Non-Candidate Status) is extended a contract or an appointment (which the Synod considers to be a call), or a call itself, there must be an installation for the sake of record and the change in position and/or status must be communicated to the Dept. of Rosters and Statistics.

As you have read through this information please hold your congregation responsible to administer the appropriate call documents to any qualified, certified church worker. This is not a suggestion, but a mandatory practice.

Please contact the district office (Judy – Education 708-223-3112) or (Ronda – President 708-223-3101) with questions on how to move forward with correcting any contract situations which may currently be in place at your congregation. Of course feel free to talk with one of us with any questions you may have.

### **Calling Vs. Contracting Roster Eligible Workers - An FAQ**

1. ***Q. Doesn't the local congregation have the autonomy to decide who we call or contract?***
  - A. While congregation's have sole authority to call, they have agreed to walk in concord with others in accordance to Synod positions. After theological review and nomenclature study, the Council of Presidents has agreed to uphold a Synod-wide approach on such matters. Since individual congregations have chosen to have the Synod represent the entire body before the IRS they have also agreed to walk in concord with decisions made with governmental agencies.
2. ***Q. What is the Synod and IRS position on roster eligible workers who are not called?***
  - A. The Synod and IRS hold that as long as a worker is eligible for the roster, they are considered “called” and eligible for the housing allowance even if the congregation has not called them.
3. ***Q. What implications does that have on the worker?***
  - A. They can designate a portion of their salary as housing. Thus, not paying income tax on that portion. However, they are also then responsible for the full 15.3% self-employment tax.
4. ***Q. What implications does that have on the congregation?***
  - A. A designated committee is to annually approve a called worker's housing related expenses which is reported as a housing allowance exemption on their W-2. The congregation is no longer bound by law to pay the required 7.65% employer portion of FICA for that worker.
5. ***Q. By calling a roster eligible worker, congregations do not have to pay the employer portion of 7.65% FICA?***
  - A. Yes. However, historically many congregations pay an offset (usually around 3%) to help the worker with their 15.3% self-employment tax or some other retirement savings plan.
6. ***Q. Is this true for all commissioned or just for ordained?***
  - A. This applies to both commissioned and ordained workers who are eligible for the roster. MINISTERS OF RELIGION—COMMISSIONED includes teachers (and school administrators), admissions counselors, directors of Christian education, directors of Christian

outreach, directors of parish music, deaconesses, certified lay ministers, directors of family life ministry, and parish assistants (Constitution Art. V). All commissioned ministers on the roster of the Synod who serve a legitimate calling entity are considered by the Synod and the Internal Revenue Service to be called and self-employed, regardless of the terminology used.

**7. Q. *But we do not want to extend tenured calls. Can we give them a term limited call?***

A. Yes, except for sole or senior pastor, limited term calls can be issued. Ordained ministers should not be done without consultation with the district president.

**8. Q. *What if workers are only part time?***

A. The Synod and the IRS do not distinguish between part time or full time. Workers eligible for the roster are to be called even if part time.

**9. Q. *What if they are filling a vacancy or interim?***

A. Any length of service over 5 months should be treated as a call.

**10. Q. *What if our congregation still does not want to call a roster eligible worker?***

A. In the initial call or hiring process, it should be made clear to the worker that they will need to resign from the roster before accepting the contract to serve the church. If they ever desire to be re-instated to the roster, the process includes advertising their name in the Lutheran Witness, an interview with district representatives, and approval by the COP. Pastors wishing to be re-instated must appear before the COP in St Louis.

**11. Q. *What if we HAVE been contracting these eligible workers?***

A. Properly call and install them. Decide if any "offset" will be provided. Approve their housing allowance going forward.

**12. Q. *Do we need to go back and adjust their previous W-2's?***

A. Each congregation and worker is unique. Advice can be provided by the Synod's Director of Tax Compliance. 1-800-248-1930 X 1441