

# Legal Basics for Bi-Vocational Pastors

## *A Practical Guide to Employment, Tax, and Liability Issues*

This guide covers the most common legal and financial questions faced by bi-vocational pastors. It is intended as a general reference for small-church leaders and is not a substitute for professional legal or tax advice. Laws vary by state, and you should consult a qualified attorney or accountant for guidance specific to your situation.

## 1. Understanding Your Dual Role

As a bi-vocational pastor, you hold two distinct roles: an employee or self-employed worker in your secular occupation, and a ministry leader in your church. Each role carries its own legal obligations, rights, and potential conflicts.

### Key distinctions:

**Employee vs. Independent Contractor:** If your church pays you, are you an employee or an independent contractor? The IRS uses a multi-factor test including behavioral control, financial control, and the type of relationship. Misclassification can result in penalties for the church. When in doubt, consult a tax professional.

**Volunteer vs. Paid Staff:** Some bi-vocational pastors serve entirely as volunteers while others receive a stipend or salary. Under the Fair Labor Standards Act (FLSA), a volunteer can donate their time to a non-profit organization without expectation of compensation. However, if you receive more than a nominal stipend, you may legally be considered an employee with associated rights and obligations.

*Important: The information in this guide is educational only and does not constitute legal or tax advice. Always consult with a licensed attorney or CPA in your state.*

## 2. Employment Contracts and Non-Compete Clauses

When you accept a secular job, you may be asked to sign an employment agreement that includes restrictive covenants such as non-compete or non-solicitation clauses. These can sometimes affect your ministry activities.

### What to watch for:

**Non-compete clauses:** May restrict you from working for a competing business. Generally do not apply to volunteer or paid ministry at a church, as the church is not a 'competing business.' However, read the language carefully.

**Non-solicitation clauses:** May prevent you from recruiting employees or customers. In rare cases, this could be interpreted to limit inviting coworkers to church events. Seek clarification if your employer is strict.

**Intellectual property clauses:** Some employers claim ownership of work products created during employment. Sermon materials, Bible studies, or ministry content you create on your own time with your own resources are typically exempt, but the specifics matter.

**Moonlighting policies:** Some employers have policies about secondary employment. Ministry service at a church is usually considered separate from employment, but review your employee handbook.

### 3. Tax Implications

Bi-vocational pastors face unique tax situations. Here are the key areas to understand:

#### **Housing Allowance (Parsonage Allowance):**

Under Section 107 of the Internal Revenue Code, a minister who is duly ordained, commissioned, or licensed may exclude a housing allowance from gross income for income tax purposes. This applies to both fully funded and bi-vocational pastors. However, the allowance cannot exceed the fair rental value of the home plus utilities, and it must be officially designated by the church in advance (typically by board resolution).

Note: The housing allowance is excluded from income tax but generally not from self-employment tax. Bi-vocational pastors should keep detailed records of church-designated allowances.

#### **Self-Employment Tax:**

If you receive a salary or stipend from the church, the church should issue a W-2 if you are an employee. If you are classified as an independent contractor, you will receive a 1099-NEC and are responsible for self-employment tax (15.3%) on your church earnings. Many small churches inadvertently misclassify pastors. Understand your classification and plan accordingly.

#### **Dual Income Reporting:**

Your secular employment income and any church compensation are reported together on your personal tax return. Keep separate records for each income source. If you have ministry-related expenses (mileage to hospital visits, books, continuing education), these may be deductible subject to current tax law limitations.

*Tax Tip: Consider setting aside 25-30% of church compensation for taxes if taxes are not being withheld. Quarterly estimated tax payments may be required to avoid underpayment penalties.*

### 4. Insurance Needs

Small churches and bi-vocational pastors often overlook insurance. Here are the key areas to consider:

#### **General Liability Insurance:**

Your church should carry general liability insurance to cover injuries or property damage that occur on church premises or during church activities. This protects both the church and its leaders. Many denominational associations offer group rates for small churches.

#### **Directors and Officers (D&O;) Insurance:**

If you serve on the church board or in a leadership capacity, D&O; insurance protects you from personal liability for decisions made in your official capacity. This is especially important for small churches where leaders often wear many hats.

#### **Workers' Compensation:**

Many states require churches to carry workers' compensation insurance even for part-time employees. If you receive any compensation from the church, you may be covered. Check your state's requirements. If you are a volunteer receiving no compensation, coverage may not apply, and injuries sustained during ministry would

need to be covered by your personal health insurance.

### **Professional Liability (Errors & Omissions):**

Consider whether your church or ministry activities could give rise to claims of negligence in counseling, spiritual direction, or pastoral care. Some church liability policies include this; others do not.

## **5. Liability Protection for Church Activities**

When you organize or lead ministry activities -- youth outings, hospital visits, counseling sessions, community events -- you need to be aware of potential liability.

- Always use permission slips and medical release forms for minors (children and youth events).
- Maintain adequate adult-to-child ratios during youth activities (recommended 1:8 for children, 1:10 for youth).
- Ensure vehicles used for church activities are properly insured and drivers have valid licenses.
- Document incidents (injuries, behavioral issues, disputes) in writing with dates, witnesses, and actions taken.
- Know your state's mandatory reporting laws for suspected child abuse or neglect. All states require clergy and youth workers to report in some circumstances.
- Avoid being alone with minors. Implement the 'two-adult rule' and open-door policies.

## **6. Protecting Yourself in Your Dual Role**

### **Practical steps to reduce risk:**

- Keep clear boundaries between your secular employment and your ministry role. Use personal devices and time for ministry when possible.
- Document all church decisions, especially financial commitments and personnel actions, in meeting minutes.
- Do not co-sign loans, personally guarantee church debts, or commingle personal and church finances.
- Keep your ordination credentials, continuing education records, and background check documentation current.
- Communicate openly with your secular employer about your ministry commitments. Get approval in writing if moonlighting policies exist.
- Carry your own liability umbrella policy if affordable. An additional \$1M in coverage typically costs \$150-300/year.

## **Resources**

This guide provides a starting point. For personalized guidance, consult these resources:

**IRS.gov -- Ministerial Tax Guide:** [www.irs.gov](http://www.irs.gov) -- Search 'ministerial tax information' for official IRS publications

**Church Law & Tax:** [www.churchlawandtax.com](http://www.churchlawandtax.com) -- Richard Hammar's resource for church legal and tax issues

**Your State's Secretary of State:** For church incorporation, nonprofit status, and annual reporting requirements

**Denominational Resources:** Many denominations offer free legal and insurance guidance to member churches

**Christian Legal Society:** [www.christianlegalsociety.org](http://www.christianlegalsociety.org) -- Pro bono legal help for churches and ministers

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