

Honorarium for Foreign Clergy

Q: Our church paid an honorarium to a guest speaker who was not a U.S. citizen. Do we need to report the payment on a Form 1099-MISC or another form?

A: Yes, the church should report the payment to the IRS, but not on a Form 1099-MISC. There are different reporting requirements when making payments to a foreign person.

According to the IRS, any person or business that makes a payment of U.S. source income to a foreign person must:

- Withhold the proper amount of tax
- Report the payment on Form 1042-S (Foreign Person's U.S. Source Income Subject to Withholding)
- File a Form 1042 (Annual Withholding Tax Return for U.S. Source Income of Foreign Persons) by March 15 of the year following the payment.

Generally, you are required to withhold U.S. income tax at a rate of 30%, and there are penalties (up to \$100,000 per year) for failing to file these forms.

The church should have the foreign person complete a Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding) which can be used to claim a reduced rate or exemption from withholding.

The form, which will include the recipient's name and address, should be kept on file to support the amount of withholding. This is similar to the Form W-9 that a church keeps on file for payments to U.S. citizens which are reported on Form 1099-MISC.

If you are unsure of which form to use, if the foreign person doesn't have a U.S. taxpayer ID (SSN or ITIN), you should probably have the person complete a Form W-8BEN and report the payment on a Form 1042 and 1042-S.

This topic is very complex and includes many more rules. For example, foreign travelers with certain visas may not be eligible to receive U.S. income. Therefore, churches should not provide honorariums to a guest speaker who is in the country on a tourist visa.

As an alternative to providing an honorarium, a church could pay for all travel-related expenses and send an offering to the guest speaker's home church.

Due to the complexity of this topic, a church may want to consult a local tax professional when dealing with payments to foreign persons.

For additional information, see IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.