

## ***Employee vs. Independent Contractor***

### ***W-2 vs. 1099***

It is critical that each parish correctly determine whether the person providing a service is an employee or an independent contractor.

The person is not classified as an independent contractor if they perform services that can be controlled by the parish (what will be done and how it will be done). This applies even if the person is given freedom of action. What matters is that the parish has the legal right to control the details of how the services are performed. When the person is classified as an employee, they must be set-up in the parish payroll system and applicable taxes deducted from their wages. At the end of each calendar year, a W-2 will be issued to each employee.

For example, if the person is directed as to what music to play, when to arrive, when to depart, when to take lunch, what to teach, etc., they are to be treated as an employee. Substitute teachers, secretaries, bookkeepers, organists, business managers, maintenance personnel, etc., are classified as employees.

However, a person is classified as an independent contractor if the parish has the right to control or direct only the result of the work and not what will be done and how it will be done. The person classified as an independent contractor must fill out a W-9 form and return it to the business office prior to any payment made. If during the calendar year, the independent contractor is paid \$600 or more, a 1099 form must be issued.

For example, if the person is hired to do a specific job such as window washing, snow removal, lawn cutting, painting etc., and they are not told to take breaks, required to follow certain work hours and are not provided with tools or equipment, they are generally considered an independent contractor.

For 1099 reporting, it is important that section 3 of the W-9 form be filled out properly by the contractor. Generally the IRS exempts corporations from needing to receive a Form 1099-MISC. However, other business structures such as general partnerships, limited partnerships, limited liability companies and sole proprietorships require form 1099 issuance if amounts exceed \$600 in the calendar year.

If the bookkeeper is unsure regarding the tax status of existing vendors, request a W-9 form from the company so the parish accounting system can be updated accordingly.

When or if doubt remains and the payment amount exceeds the \$600 threshold, a 1099 form can be filed. The IRS does not levy penalties for filing 1099 forms that are not needed.

Contact the Diocese Finance Office if issues have not been resolved.