

## **CASH PAYMENTS TO INDIVIDUALS AND “INDEPENDENT CONTRACTORS”**

All parishes, schools and agencies are reminded that issuing cash or checks to employees in consideration for services rendered is strictly illegal in the absence of required tax withholdings and a year end W-2 form. Similarly, a true independent contractor who receives more than \$600.00 in a calendar year from an organization must be issued an IRS form 1099.

Careful attention must be made when classifying an individual as either an employee or an independent contractor. Recent audits by the Internal Revenue Service reveal that over 90% of the time individuals who are listed by various organizations as “independent contractors” are, in fact, employees. Failure to properly classify an employee, and to deduct appropriate withholdings, can result in significant assessments for back taxes as well as penalties.

Generally, the relationship of employer and employee exists when the person or persons for whom the services are performed has the right [even if not actually exercised] to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but as to the details and means by which that result is accomplished. The IRS examines twenty factors [not necessarily equally weighted] to evaluate these elements of control and direction. Classic independent contractors ordinarily do not have a continuing relationship with the organization nor do they work set hours or follow specific policies and procedures of the employer. Examples include a plumber who comes to fix a leaky pipe at the school or an accomplished singer who travels the country and performs one-night religious concerts at selected schools/parishes. Individuals must be able to demonstrate that they have their own business [i.e. have many other clients; a business license, card and office; liability coverage, etc.], are able to perform the work without detailed supervision and control, and furnish their own tools and materials necessary to perform the tasks at hand. Thus, unless a unique, temporary job, unrelated to the parish/school’s normal activities, is involved, in all likelihood the person is not a true independent contractor.