

CRITICAL LEGAL ISSUES FOR CALIFORNIA CHURCHES

LEGAL ISSUE	WHY THIS IS NECESSARY	HOW TO DO IT
Getting a Employer Identification Number (EIN) from the Federal Government	A church must have an EIN in order to open its own checking account and to pay employees .	Obtain from the IRS, (Form SS-4). Visit www.irs.gov . Click on "forms and pubs," then "Forms and instructions," highlight "Form SS-4 Application for Employer identification," for the appropriate form. Churches may also need a State EIN issued by the Employment Development Department (EDD) www.edd.ca.gov .
Writing a Constitution and Bylaws	Establishes the purpose of the church and how the church will govern itself. Marks the transition of a mission congregation to an autonomous church.	Secure this resource for instructions and examples: www.namb.net/cp/About_CPG/PDF/constitution_guide.pdf A Manual For Incorporating a Baptist Church in California , by Nolan Kennedy (obtain from California Southern Baptist Convention)
Incorporating Your Church in California	Incorporated churches become a separate legal entity . Provides legal and financial protection for its members and ministries. Without incorporation, church members are <i>personally</i> responsible for any financial obligations of the church. Must incorporate in order to receive tax exemptions, purchase property, obtain loans, and obtain insurance .	Visit California Secretary of State Website: www.ss.ca.gov/business/corp/pdf/articles/corp_artsnp.pdf This document provides instruction on how to incorporate a church as a religious nonprofit in California. Also check out the CSBC resource: A Manual for Incorporating a Baptist Church in California , by Nolan Kennedy
Obtaining Federal religious non-profit status as a 501(c)(3) corporation	Churches that qualify for Federal tax exemption under section 501(c)(3) of the tax code are not required to file federal income tax returns on church income. NOTE: Churches are still liable for withholding and paying FICA and income tax on behalf of their ordained and non-ordained employees.	The California Southern Baptist Convention possesses a 501(c)(3) exemption from the IRS that covers all affiliated churches. The church must present the "group letter" from the IRS to the CSBC dated March 30, 1964 to entities requiring proof of exemption. Receive this letter by contacting the Business Office of the CSBC. NOTE: This "group exemption" may not be airtight for all situations. It is also recommended that all churches obtain their own tax exemption status recognition directly from the IRS.
Obtaining California Tax Exemption status	Nonprofit corporations are subject to California corporation franchise tax requirements unless a determination of exemption is issued by the CA Franchise Tax Board. Application for exemption must be made after incorporation. The fact that the organization is exempt from federal income tax does not automatically exempt it from California tax. <i>Nonprofit</i> does not mean <i>tax-exempt</i> .	Visit Franchise Tax Board's Website: http://www.ftb.ca.gov/forms/2008/08_3500.pdf to download FTB Form 3500. Each incorporated church must submit it directly from the Franchise Tax Board.
Liability Protection	The church as a "corporation" needs to be protected in case of personal injury or property claims. Also, all pastoral staff involved in professional counseling should have malpractice insurance.	Double Honor, Church Mutual and Guideone that specialize in church liability coverage. (Double Honor is a partner with the California Baptist Foundation)
Asset Protection	Churches that cease to exist for whatever reason must by law distribute their assets to another tax exempt religious non-profit. Because churches have an interest in advancing Kingdom ministry after their dissolution, they often provide in their bylaws that their assets will be distributed to their local association, state convention, or Foundation trust.	While no asset protection provisions are completely airtight, they clarify the congregation's intentions in the case of church dissolution.
Child Protection Policy	Every church needs a policy to protect the security of children and to protect the church from liability.	CSBC has an child protection checklist at: http://images.acswebnetworks.com/1/48/SafetyandSecurityCheckup708.pdf
Copyright Licensing	Churches need to deal responsibly with copyright issues . One of the major areas of violation in many churches is in the area of music and video clips. CCLI is an organization for licensing. The cost of the license depends on attendance. Churches must also help pastors understand that the sermons of the pastor written and delivered for the church are "work for hire" and the copyright belongs to the church unless there is a written agreement between the two in which the church waives its copyright.	Visit this website: http://www.ccli.com/
Workers Compensation Insurance	All employers in California are required to carry Workers Compensation Insurance on all employees. If a church pays its pastor, it must have workers compensation	See your insurance agent.