

FEDERAL INCOME TAX COMPLIANCE FOR PASTORS AND MINISTERS

Preface

This document was based on IRS regulations and material in the Church & Clergy Tax Guide, 2003 Edition, by Richard Hammer, J.D., LL.M., C.P.A, published by Christian Ministry Resources, Mathews, N.C. www.iclonline.com . This is a comprehensive reference document with detailed examples and case law regarding all tax matters. References to this source are indicated by "Church, (page)." This resource is recommended for all church libraries as a ready reference for detailed issues and questions surrounding federal income tax compliance for individuals and churches.

1. Overview

Who has time to deal with income taxes? Well, unless you sense God calling you to become a prison trustee chaplain, you better make time! There is no getting around it: you must pay income tax. Sadly, many in ministry don't deal with federal income tax issues effectively. Tax planning and compliance is kind of like building a home; it is important to start with a plan, establish a firm foundation and do it right the first time. This is a brief summary to help pastors and ministers of the Gospel comply with federal income tax and social security tax provisions. It is impossible to cover everything of significance in such a short document however there are many aids available to help ministers and non-minister church employees comply with federal tax laws.

There are a few fundamentals involving income taxes. First, always report all sources of taxable income, such as secular self-employment, guest preaching in other churches, honorarium income, and fees received directly from church members for performing funerals, weddings or other services. Failure to report income can result in penalties of from 25 percent to 75 percent in addition to the tax due. Tax evasion can result in a fine of up to \$100,000 and a criminal sentence of up to five years. Second, pay your quarterly tax installments and file your income tax returns on time. Penalties for late filing can be up to 25 percent plus interest. Third, minimize taxable income and income tax through legal and legitimate means such as taking advantage of tax credits, reporting exclusions from and adjustments to gross income, and itemizing deductions.

This summary focuses on issues particular to pastors and ministers. There are other provisions for non-minister church employees which are not included here. There are also many issues and requirements that affect all taxpayers which are simply too extensive to address in this document. Here are a few critical points to consider:

- Ministers must file quarterly estimated tax payments 15 days following the end of the calendar quarter (the 15th of April, July, October and January)

- Generally, any minister with \$400 or more of income will need to file a tax return.
- Most clergy must use Form 1040 (rather than 1040A or 1040EZ).
- It is essential to obtain a social security number for all dependent children.
- It is important to retain income tax return records for at least three years after the return was due.
- While tax provisions for ministers are unique, they are not complex and therefore it is possible to prepare one's own tax returns although it is recommended that a competent tax preparer experienced in church tax issues be used in at least the first year. This tax advisor should be consulted prior to the start of the tax year regarding certain compliance issues (declaration by the church of a housing allowance, if applicable, and proper planning for quarterly estimated payments.)

There also are issues which are critical for proper compliance with federal income tax and payroll tax reporting standards by the church which are in section 10. Here are some the critical issues related to church accounting, compliance, and internal controls that will help protect both the church and the minister from non-compliance, fraud and malfeasance:

- **WE HAVE TEMPLATES TO USE FOR AN ANNUAL BUDGET. THE FORMS FOR FEDERAL INCOME TAX COMPLIANCE, PAYROLL TAX AND OTHER FEDERAL COMPLIANCE FORMS ARE REFERENCED IN SECTION 10 AND FOUND IN THE CHURCH MANUAL MENTIONED IN THE PREFACE.**
- **USE AN ACCOUNTANT FAMILIAR WITH CHURCH ACCOUNTING TO DO THE CHURCH BOOKS THE FIRST YEAR.**
- **GERMANTOWN BAPTIST CHURCH WANTS TO PROVIDE ASSISTANCE IN SETTING UP THE BOOKS INITIALLY. ONE CHURCH START SUFFERED MUCH FROM POOR ADVICE ON THESE ISSUES FROM AN OUTSIDE PARTY AND THAT IS WHY WE ARE SO ADAMANT ABOUT THIS.**
- **DO NOT MIX YOUR PERSONAL BANK ACCOUNT ACTIVITY OR FUNDS WITH THE CHURCH BANK ACCOUNT ACTIVITY OR FUNDS.**
- **DO NOT DO THE BOOKS YOURSELF. IT OPENS THE DOOR FOR SATAN TO ALLOW YOU TO BE ACCUSED OF MISUSING FUNDS BASED ON PERCEPTION OR THE APPEARANCE OF IMPROPRIETY ALONE. SEE SEGREGATION OF DUTIES BELOW.**
- **DO NOT OBTAIN AUTHORITY TO WRITE CHECKS ON THE CHURCH ACCOUNT. SEE SEGREGATION OF DUTIES BELOW.**
- **SEGREGATION OF DUTIES: THE GREATEST PROTECTION AGAINST THE APPEARANCE OF IMPROPRIETY IS SEGREGATION OF DUTIES. THE INVOLVEMENT OF THREE DIFFERENT PEOPLE IN THE PROCESS ACCOMPLISHES THIS:**
 - **ONE PERSON TO MAINTAIN THE BOOKS AND RECORDS (BUDGET, GIVING RECORDS, EXPENSE RECORDS, RECONCILIATION OF THE BANK STATEMENT)**
 - **ONE PERSON TO AUTHORIZE PAYMENTS AND DISBURSEMENTS IN THE CHURCH RECORDS (THIS MAY BE THE PASTOR) BUT NOT SIGN THE CHECKS.**

- **ONE PERSON TO PREPARE AND ISSUE CHECKS (WHO DOES NOT HAVE AUTHORITY TO AUTHORIZE PAYMENTS AND DOES NOT HAVE CONTROL OVER THE BANK STATEMENTS, RECONCILIATION PROCESS OR THE BOOKS AND RECORDS.**
- **ANY TWO PEOPLE MAY COUNT AND RECORD CASH OFFERINGS RECEIVED BY THE CHURCH.**
- **THIS SEGREGATION OF DUTIES REQUIRES THE SELECTION OF TWO TRUSTED INDIVIDUALS OTHER THAN THE PASTOR TO PERFORM THESE FUNCTIONS. THEY MAY BE SELECTED FROM AMONG THE CONGREGATION OR IN SOME CASES FROM A SISTER CHURCH IF NO QUALIFIED INDIVIDUALS ARE AVAILABLE INITIALLY.**

2. Reporting Status: Employee or Self-Employed?

Most ministers should report their income as employees. Not only is it likely that the IRS would consider the minister to be an employee in an audit, this treatment is typically more favorable for the minister. Favorable treatment includes tax-free treatment of some fringe benefits such as medical insurance and the use of retirement plans only available to employees. Self-employed reporting status is sometimes favorable because there are no limitations on the deduction of work-related expenses for the self-employed while employees are subject to limitations.

There are several tests used to determine employee status based on IRS regulations and various court cases. These tests focus on: the amount of control exercised by the hiring party and the amount of discretion exercised by the worker in performing the work; skill required for the work; the source of facilities, tools and administrative support; the location and duration of the work; the method of payment; and other characteristics. For example, a pastor who works full time, maintains an office at the church, receives administrative support from the church, gets paid weekly/biweekly and receives various health and welfare benefits, is likely an employee. On the other hand, income as an itinerant evangelist, guest speaker, supply pastor and for performing services (baptism, marriages and funerals) will likely be considered self-employment income. Please obtain competent tax advice if you work for a church or supporting organization that wants to treat you as self-employed for federal income tax purposes unless this treatment is clearly substantiated by one of the tests used to make this classification (see Church, pp. 55-59.)

Irrespective of the treatment for income tax purposes, ministers are always self-employed for Social Security purposes. This odd dual tax status means that employed ministers will receive a W-2 with employment from their church but they will never be subject to the current 7.6 percent FICA (Social Security and Medicare) payroll tax withholding. Since the church does not pay half of the FICA (Social Security and Medicare) payroll tax, the minister will pay the larger 15.3 percent self-employment tax. Further, while ministers are always subject to

income tax, ministers by law are never required to have their employer withhold income tax purposes although they may elect to do so.

- **MINISTERS MUST FILE QUARTERLY ESTIMATED TAX PAYMENTS ON APRIL 15, JULY 15, OCTOBER 15 AND JANUARY 15(OF THE SUBSEQUENT CALENDAR YEAR) FOR QUARTERS ENDED MARCH 31, JUNE 30, SEPTEMBER 30 AND DECEMBER 31(OF THE PRIOR CALENDAR YEAR). THIS MAY BE NEW FOR YOU IF YOU HAVE NOT FILED QUARTERLY ESTIMATED TAX PAYMENTS BEFORE. DO NOT MISS THESE FILING DATES. THIS WILL INCLUDE BOTH FEDERAL INCOME TAXES AND SOCIAL SECURITY TAXES. THIS APPLIES TO ALL MINISTERS, INCLUDING THOSE WHO ARE EMPLOYEES FOR FEDERAL TAX PURPOSES AND SELF-EMPLOYED FOR SOCIAL SECURITY TAX PURPOSES (THE VAST MAJORITY OF FILERS.)**
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3. Special Tax Benefits for Ministers

Before reviewing the special tax benefits they enjoy, it is important to understand who may be considered a “minister” for tax purposes (from Church, p. 78):

A minister must be ordained, commissioned or licensed. Four other factors are applied as a balancing test to support classification as a minister:

- Administers sacraments (or conducts ordinances)
- Conducts religious worship
- Has management responsibility in a local church or religious denomination (control, conduct, or maintenance of a religious organization)
- Is considered to be a religious leader by his or her church or denomination.

The four special tax benefits ministers are eligible to receive (from Church, p. 76), with respect to services they perform in the exercise of their ministry, are:

1. The exclusion from income of a housing allowance or the fair rental value of a parsonage provided to the minister rent-free. See 6. below.
2. The exemption from Social Security system coverage (if several conditions are met).
3. The self-employed reporting status for Social Security purposes (if not exempt from coverage as in 2. above).
4. The exemption of employment wages from federal income tax withholding (which necessitates timely submission of quarterly estimated tax payments). Minister employees may voluntarily request withholding for income taxes by their employer.

4. Income

The first fundamental of federal income tax compliance is always report all sources of taxable income. The definition of taxable income is comprehensive and includes much more than salary (from Church, p. 103):

- Bonuses
- Christmas and special occasion offerings
- Retirement gifts
- The portion of a minister's Social Security tax paid by a church
- The personal use of a church-provided vehicle
- Purchases of church property for less than fair market value
- Rental income
- Interest Income
- Some forms of pension income
- Some reimbursement of a spouse's travel expenses
- Forgiven debts
- Severance pay
- Church-paid trips to the Holy Land
- Non-accountable reimbursement of a minister's business expenses

A common question is how Christmas and other special occasion gifts (e.g., service anniversaries) should be treated. The general rule is that all gifts from the church general fund or funded through donations by members should be reported as taxable income. Exceptions may include person-to-person gifts such as a non-deductible check by a member of the congregation that is included in a Christmas card. Gifts made by personal check payable to the minister and collected by the church might be considered nontaxable if they meet certain standards (see Church, p. 115.) Retirement gifts must also meet strict standards in order to be treated as non-taxable income (see Church, pp. 116-119.) Direct payment to a third party and reimbursement to the employee for certain moving expenses are treated as tax-free fringe benefits. All other moving expense reimbursements are considered nonqualified and are taxed as a fringe benefit. Personal use of a vehicle provided by the church is taxable based on annual lease value tables provided by the IRS and the percentage of personal miles driven (see Church, pp. 120-122).

Other important issues involving income:

- Payment of unreasonably high compensation to a minister can jeopardize the tax-exempt status of a church and subject the minister to intermediate sanctions, an excise tax of up to 200 percent of the unreasonable income (including salary, fringe benefits and special occasion gifts.) This excise tax may be imposed on board members as well as the minister who receives excessive compensation.
- Low-interest or no-interest loans result in taxable income to the minister and may put the church in violation of state non-profit corporation laws.

- Unrestricted funds which are distributed in the sole discretion of the minister typically result in taxable income for the minister.
- Reimbursement of a spouse's travel expenses is taxable unless a direct business purpose is established for the travel.
- Income that is assigned (e.g., requesting that earned income be contributed to a charitable organization) is still taxable to the minister who earned it.
- Salary that is refused is taxable if the minister directs it to a particular use, e.g., instructs the church to use the refused salary for a specific purpose.
- Shifting income from the minister to the minister's spouse to reduce the tax burden does not work because there is typically no basis for the shift.

5. Exclusions from Gross Income

Some types of income are not subject to income tax. They are called exclusions. Some exclusions are available to all taxpayers, for example, gifts (provided they are not in fact income for services performed), life insurance proceeds, inheritances, qualified scholarships (awarded to degree candidates for tuition, books and fees), medical insurance premiums paid by employers for employees, reimbursements for medical care under health plans, child care provided by an employer (subject to a plan that does not discriminate in favor of highly-compensated employees), qualified tuition reductions for the employee, spouse or children provided by an employer education institution, educational assistance, and lodging provided for the convenience of the employer as a condition of employment. Many of these exclusions are available to employees and the self-employed while some are only available to employees. Many of these exclusions are not available to highly-compensated or key employees unless the fringe benefit is non-discriminatory, or provided to all employees regardless of income. The most important exclusion for ministers is addressed in the next section.

6. Parsonages and Housing Allowances

Ministers who live rent-free in a parsonage do not have to report the fair market value of this fringe benefit. This compensation for ministerial services is simply not reported as income to the minister by the church. Ministers also do not pay federal income taxes on the portion of their income which is designated in advance as a parsonage allowance provided the allowance is compensation for ministerial services and is used to pay parsonage-related expenses such as utilities, repairs and furnishings. Since a minister who lives in a parsonage does not build up equity in the home (or end up owning the home at retirement), some churches establish an equity allowance in a retirement fund that becomes available to the minister upon retirement and is taxed at the time the minister receives the proceeds from the fund.

Ministers who own their own home do not pay federal income taxes on the amount of their compensation which is designated in advance as a housing

allowance provided the allowance is compensation for ministerial services, is used to pay housing expenses and does not exceed the annual fair rental value for their home (including furniture and utilities.) The fair rental value limit applies for all tax years after 2001; special rules apply for 2000 and 2001. Ministers who own their own home benefit from a double deduction: they may deduct interest and property taxes as an itemized deduction on Schedule A even though they received the benefit of the exclusion of the designated housing allowance from their gross income. Ministers who rent a home or an apartment do not pay federal income taxes on the amount of their income that the church designates in advance as a housing allowance. The allowances for ministers who own or rent must be used to pay for housing expenses (mortgage/rent, repairs, furnishings, utilities and insurance.)

Parsonage and housing allowances should be adopted in writing by the board of the church or the congregation prior to the start of the tax year. To prevent the loss of this important tax benefit in the event the church fails to make a timely designation, the church should adopt "safety net allowances." This may be done by incorporating language into the first such designation such as "this housing allowance applies to 2004 and all subsequent years unless modified." Likewise, a similar designation may be made by the church to allow for intra-year hires of ministers with language such as, "all ministers hired shall have a designated housing allowance of 40 percent of their salary for 2004 and all subsequent years unless otherwise specifically designated."

Important points to know:

- Parsonage and housing allowances must be designated in advance; there is no retroactive application of this tax benefit (See safety net allowances in the prior paragraph).
- The church may amend the allowance prospectively during the year.
- Allowances may not exceed actual housing expenses and are limited to fair rental value for ministers who own their homes. Ministers who pay off their mortgage will see a dramatic reduction in the exclusion because of the actual expenses limitation.
- The annual rental value of a parsonage and the housing allowance are exclusions only for federal income tax purposes. They must be included in self-employment earnings for the calculation of the self-employment (Social Security) tax.
- Ministers who receive income from multiple churches may request that each church designate a portion of the income as a housing allowance.
- The allowances do not need to be reported on the minister's W-2 and the church does not need to issue separate checks for the salary and housing allowance components of income.
- It is possible for church pension plans to designate housing allowances to retired ministers subject to certain requirements.

7. Business Expenses, Itemized Deductions and Credits

Tax provisions related to business expenses, itemized deductions and credits are extensive and apply to all taxpayers. This section will be limited to highlights and aspects of particular interest to ministers.

- Adjustments to gross income are available to taxpayers whether or not they itemize deductions on Schedule A. Examples include the deduction of one-half of self-employment tax, IRA contributions and Keough contributions.
- Certain other expenses may be itemized and deducted on Schedule A subject to limitations regarding medical expenses and miscellaneous deductions.
- Un-reimbursed business expenses may be included in itemized deductions to the extent they exceed 2 percent of adjusted gross income.
- If the church does not require documentation of the minister's business expense reimbursement along IRS guidelines, then the business expenses are incurred in a non-accountable arrangement. The full amount of expenses reimbursed by the church must be reported in the minister's gross income and the minister may take an itemized deduction subject to the 2 percent limitation, subject to proper personal income tax recordkeeping.
- Alternatively, under an accountable arrangement, the employee must submit business expenses with detailed support for reimbursement by the church. No income is reported related to the expenses and no deduction is made on Schedule A by the minister. There are four requirements for an accountable arrangements (See Church, p 193.) These plans may use per diem rates in lieu of actual expense receipts.
- Ministers who report self-employment income for federal tax purposes may deduct business expenses related to the production of self-employment income on Schedule C even if they do not itemize and without being subject to the 2 percent limitation.
- Typical expenses for ministers include: transportation, travel, entertainment, books and subscriptions, education and vestments. Home computers and home office expenses may be deducted subject to strict qualifying rules. Commuting expenses are always personal expenses except in rare cases of a qualified home office. Vehicle expenses may be deducted using the actual cost or the standard mileage rate (if elected in the first year the car is used for business purposes.)
- A common tax planning approach is to group itemized deductions by accelerating or deferring payments to increase the allowed deduction for the current year. For example, it may be possible to incur expenses for elective medical treatment in a year when other medical expenses have already been incurred, thereby increasing the allowable itemized deduction above the threshold.

- It may be advantageous for a minister to use a church vehicle for business travel.
- Entertainment expense deductions are subject to special requirements.
- The Deason rule requires ministers to discount their business expenses by the percentage of their total compensation that is designated as a tax-exempt housing allowance. For example, a pastor with total compensation of \$50,000 and a housing allowance of \$20,000 may only deduct 60% of reported business expenses for federal tax purposes under this rule. This reduction does not apply to business expenses deducted to arrive at self-employment income for self-employment tax purposes. The adverse impact of the Deason rule can be eliminated if the church adopts an accountable arrangement for reimbursement of business expenses as mentioned above.
- Tax credits can dramatically reduce income tax owed since they offer a dollar-for-dollar reduction in the tax liability. Further details on tax credits may be found in the instructions for Form 1040 and in Church, pp. 264-271.

8. Charitable Contributions

Contributions constitute nearly the entire source of funding for almost all churches yet many pastors and donors lack a solid understanding of the regulations surrounding charitable contributions for federal income tax purposes. Knowledge of the fundamentals will help the pastor avoid adverse consequences to the church or the donor. Consequently, the issues covered in this section are primarily from the viewpoint of the church rather than from the viewpoint of the minister's federal income tax compliance.

The first caveat has nothing to do with federal income tax concerns: a church is not required to accept a donation. That statement may seem odd but is worth consideration. There are many examples of churches that later regretted accepting a donation. One example is when a member seeks to donate a piece of real estate that on closer examination is complicated with problems. It may be that real estate is environmentally contaminated which could expose the church to environmental clean-up costs. Or it may be that the real estate is unusable and would be difficult to sell. The cost of ownership may exceed the value of the contribution. Another example is a designated contribution with a restrictive purpose. Unless the donation is designated for an approved project or program of the church, the church may be faced with the difficulty of creating a project or program in order to fulfill the donor's restrictive designation. Otherwise, the church may have a restricted fund on its books well into the future. These issues are best dealt with at the time the church member expresses interest in making the property or restricted cash donation.

There are six requirements for a gift to be considered a charitable contribution under federal tax law:

1. The gift must be in cash or property.
2. The deduction for the gift must be claimed by the donor in the year the contribution was made (except that checks dated, mailed and post-marked prior to year-end but received by the church at the beginning of the new year may be recorded as donations in the prior year.)
3. The gift must be unconditional and without benefit to the donor. Where a donor does receive something in return or “quid pro quo”, the church must deduct the value of the item or services received by the donor to reflect the deductible amount on the receipt. Gifts made by a donor for their own benefit, for example, a contribution by parents directed to the support of their minister child, is not deductible. Donations to a missionary organization for the support of a specific missionary are deductible, provided the organization has “full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes.” (Church, p. 295)
4. The gift must be made to or for the use of a qualified charity under IRS regulations. Gifts made directly to an individual are not deductible.
5. The contribution must be within the allowable legal limits (carryover of excessive contributions is allowed under federal tax law.)
6. The contribution must be properly substantiated by the taxpayer. The church is responsible for substantiating that individual contributions of certain types were made by providing a receipt to the donor according to IRS requirements. These requirements vary by type, e.g., cash contributions under \$250, cash contributions over \$250, quid pro quo contributions under \$75, quid pro quo contributions over \$75, non-cash gifts of property under \$250, non-cash gifts of property of \$250 to \$500, non-cash gifts of property over \$500 but less than \$5,000, and non-cash gifts of property of \$5,000 or more. See Church, pp. 313-335 for detailed requirements and examples. Churches are not required to provide a valuation for donated property; instead the church provides the required details of the contribution so that the taxpayer and ultimately the IRS can place the proper value on the gift. The taxpayer is required to obtain a valid appraisal for large gifts of property and gifts of stock that are not publicly traded.

The following are not deductible as charitable contributions under federal tax law:

- The value of personal services provided to a charitable organization (although expenses incurred in provided the services may be deducted.)
- The value of rent-free space provided to a charitable organization.
- Charitable contributions made in a prior tax year (see 2. above.)
- Contributions made for the benefit of the donor or where the donor retains control over the use of the funds. Restrictive gifts to established programs

- or projects may be made but the church must have control over the use of the funds (see 3. above.)
- Contributions made directly to an individual, even if they are used for charitable purposes by that person (see 4. above.)

9. Social Security

Ministers are always considered self-employed for Social Security purposes related to their income from ministerial work. This is true even if the minister is treated as an employee for federal income tax purposes. As a result, the minister must pay the self-employment tax on self-employment income at a rate of 15.3 percent. Some churches will provide additional compensation to the minister in recognition that the church does not share the burden of Social Security taxes as in the case of other employees. This additional compensation is always taxable for federal income tax purposes.

Ministers do receive some relief for their higher tax burden related to Social Security taxes. The relief comes in the form of two deductions. The first relief is that an amount equal to 7.65 percent of their self-employment earnings may be deducted in arriving at self-employment income subject to the 15.3 percent self-employment tax. The second relief is that they may deduct half of the self-employment tax as an adjustment in computing federal income taxes, even if they do not itemize deductions on Schedule A.

There is an important but restrictive exemption available to ministers: they may be exempted from Social Security tax altogether with respect to their earnings from ministerial services. This exemption has highly restrictive requirements so that most ministers will not, in good faith, meet all of the following IRS requirements (from Church, pp. 343-345):

1. The minister must be an ordained, commissioned, or licensed minister of a church.
2. The church or denomination that ordained, commissioned, or licensed the minister is a tax-exempt, religious organization.
3. The minister must file an exemption application (Form 4361) in triplicate with the IRS reflecting conscientious opposition to the acceptance of the medical, retirement and death benefits provided by the Social Security system (not payment of the tax) based on religious belief. This opposition must be based on the religious principles of the denomination or conscientious opposition by the minister because of religious (not economic, personal, philosophical, political or other) reasons.
4. The exemption application must be filed on time, generally by April 15 of the third year of ministry.
5. Notification of ordaining, commissioning or licensing church or denomination of the election, presumably for this body to counsel the

- minister on the election which may result in harsh economic consequences to the minister and dependents.
6. IRS verification of the application for exemption.

Given the stringent requirements for the exemption and the significance of such a decision, any minister interested in receiving this exemption should obtain appropriate counsel on the religious belief underpinning from the appropriate governing body. The minister should also fully understand that this exemption is irrevocable. A previous window for ministers to revoke prior exemption has since closed. See Church (pp. 342- 361) for a thorough review of the exemption process, consequential issues and common questions.

10. References for Sample Forms

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