

Minister Taxes

San Jacinto Baptist Association
October 2014

Minister Criteria

Credential

- Licensed
- Commissioned or
- Ordained

Performance

- Conduct of religious worship
- Administration & maintenance of religious organization
- Sacerdotal functions (Latin word meaning duties reserved for the priest, priestly or the priesthood)
- - Services performed under an assignment by a religious body constituting the minister's church

Minister Credentials

General Rule – Ministry begins with ordination

Exception for Licensed Minister

- who has been granted authority to perform substantially all the religious functions of an ordained minister

- Marriages
- Funerals
- Baptisms
- Communion
- Preaching
- Teaching

Minister Housing

Available only to those meet the IRS criteria for Minister

Must be the lesser of:

- Fair rental value of similar furnished house
- Amount designated
- Actual housing expense incurred

Exempt from Federal Income taxes

Taxable as Self-employment income (Social Security)

Minister Housing

Must be designated by the employer/payer (the church) and

Must be designated in advance of being paid and

Must be designated in writing

Qualified Housing Expense

- Down Payment on home
- Mortgage payment (principal & interest)
- Rental payment
- Real estate taxes
- Homeowners insurance
- Utilities (gas. Electricity, water, sewerage/trash, telephone, cable/satellite)
- Furnishings and appliances
- Repairs and remodeling
- Yard care/Landscape
- Maintenance items (cleaners, light bulbs, pest control, etc)
- HOA dues
- Not Maid services
- Not food

Housing allowance ruled unconstitutional

Wisconsin Federal district court concluded that housing allowance is unconstitutional preference for religion

- challenge relates to housing allowance for ministers not living in parsonages
- - Parsonage exclusion remains unchallenged
- - Ruling takes effect at the later of a) conclusion of any appeals or b) the expiration of the deadline for filing an appeal
- - A ruling by a federal district court in Wisconsin is not binding on other courts and does not apply to ministers in other states outside the Seventh Circuit Court.
- Churches should continue to designate housing allowances for ministerial employees for 2014 & 2015

Unique Tax Issues for Ministers

Ministers have a dual tax status

1. Employee for IRS purposes (W-2)
2. Self-Employed for Social Security (SECA)
 - file form SE on 1040
 - never ever never ever withhold social security
 - IRC Sec 3121 states that ministers wages are not wages for FICA

Is Self employment tax optional?

- Ministers may opt out based on their theological beliefs against socialized insurance
- Form 4361
- - due by the date for the Form 1040 for the 2nd year in which the minister had self employment income of \$400 or more which any portion is attributable to ministry work
 - Not effective until approved by the IRS
 - Election is irrevocable
 - DO NOT LOSE THE APPROVED FORM

Self Employment for Retired Ministers

- May be eligible to exclude housing allowance from income in figuring self-employment income
- - portion of retired minister's pension income from a denominational pension fund must be designated and approved by the pension board
- - caution!!! Many facts and circumstances are relevant in determining whether retirement has occurred

Compensation

- Base salary/wages
- Bonuses
- Reimbursement for portion of SE tax
- Special occasion gifts
- Incentive compensation
- Severance pay
- Loans
- Gift Cards
- Noncash Gifts
- Employer provided auto
- Payment of auto expenses
- Auto allowances
- Personal portion of cell phones
- Life insurance outside of group plan
- Travel advances without subsequent documentation
- Reimbursements through a non-accountable plan
- Travel for spouses & family

Write It Down !!!!!

- Compensation packages should be documented noting the date it was approved and who approved it.
- For certain persons, the church must also document the outside sources used to determine reasonable compensation.

Fringe Benefits

Nontaxable - Normally

- Housing Allowance
- Contributions to Qualified Retirement Plans
- Health Insurance Premiums (group plan provided)
- Employer provided room and board (for the convenience of the employer)
- Reimbursements under an accountable plan

Taxable - Maybe ????

- Group term life insurance (\$50,000 and greater taxable)
- Payment of out of pocket medical expenses (Sec 125, MSA's)
- Dependent Care plan
- Tuition assistance plan
- Benefits provided through a cafeteria plan
- Employer provided auto

Unique Tax Provisions for Ministers

1. Housing allowance exclusion – IRC Sec 107
2. Self-employed status for Social Security – IRC Sec 1402(c)
3. Exemption from mandatory income tax withholding – IRC Sec 1401(a)(9)
4. Voluntary income tax withholding – Reg.31.3402(p)-1
5. Exemption for Social Security coverage – IRC Sec 1402(e)
6. “Double dipping” benefit for deducting mortgage interest and real estate taxes as itemized deductions (Schedule A) and inclusion in housing allowance computation

What's In for 2014

1. Standard mileage rate 56 cents per mile, 14 cents charity
2. \$17,500 maximum contribution deferral to 403(b) or 401(k) plan
3. \$5,500 catch-up limit for contributions deferral to 403(b) or 401(k) age 50 or older
4. Personal exemption \$3,950 each individual
5. Standard deduction \$12,400 for joint returns \$6,200 for filing single and married filing separately

Child Tax Credit

- Credit for each qualifying child under 17
- Credit \$1,000
- Refundable credit up to 15% of earnings above \$3,000
- Permanently extended tax years beginning at 2012.

Dependent Care Credit

- Credit for percentage of child care expenses for children under the age of 13 and disabled dependents
- Eligible expenses are \$3,000 one child and \$6,000 two or more
- Credit is 35% to 20% based on adjusted gross income (AGI) of \$15,000 or less to \$43,000 or greater
- Credit reduces 1% for each \$2,000 or fraction of AGI over \$15,000
- Maximum
 - one dependent - AGI \$15,000 credit = \$1,050 (35% of \$3,000)
 - two dependents - AGI \$15,000 credit = \$2,100 (35% of \$6,000)
- Permanently extended tax years beginning at 2012.

Deason Rule

- Applies to minister's business expenses
- IRC Sec 265 requires a minister to first apportion part in the business expenses to nontaxable housing allowance
- Long standing ruling - IRS agents now reviewing to see if following

Deason Rule

Total income	\$30,000
Housing allowance	\$12,000
Percentage of nontaxable income	40%
Total Unreimbursed Business expenses on Form 2106	\$4,000
Nondeductible Business Expense	\$1,600

This should be shown as an attachment to the tax return

The nondeductible amount show as a negative amount

Reimbursement Plans

- Accountable Plans
 - Must be written
 - Reimbursement is not taxable
 - Not reportable on W-2
- Nonaccountable Plans
 - Reimbursement is taxable
 - Reportable as wages on W-2

Accountable Plans Requirements

1. Expenses must have a business connection
2. Adequate accounting
 - requires employee to account to employer within no more than 60 days after expense incurred
3. Return excess reimbursements
 - excess reimbursement or allowance must be returned no later than 120 days from payment
4. Reimbursements are not made out of salary reductions
 - reimbursement of expenses comes out of employers fund not by reducing employees salary

NonAccountable Expense Plans

1. Any sort of plan that does not require an accounting
2. A plan that is deemed to not be timely carried out
3. Netting arrangement -

Pastor receives \$1,000 each week. Finance committee tells pastor that if he turns in his business expenses each week, then he can split the payment into part business expense and part salary payment. All of \$1,000 is taxable.

Advantages of Accountable Plans

1. Avoids the reimbursement being includable as taxable income
2. Avoids employee losing deduction because of standard deduction
3. Eliminates loss of itemized deduction due to 2% floor on miscellaneous deductions
4. Avoids 50% deduction for meal and entertainment expenses
5. Avoids reduction to Deason rule

Disadvantages of Accountable Plans

1. Employee keeps detailed expense records
 - Documentation falls on employees shoulders
2. Plan cannot be considered part of compensation package
3. Church has full authority to deny reimbursements for unsubstantiated expenses
4. Amount budgeted is not payable unless expense is incurred and substantiated to the church

Examples of Business Expenses

- Transportation
- Travel
- Entertainment
- Books and subscriptions
- Educational
- Cell Phones

IRS Resources

Telephone Numbers:

General Information	1-800-829-1040
Tax Forms and Publications	1-800-829-3676
Status of Refund	1-800-829-4477

Web Site:

www.irs.gov

Publications:

Pub 15	Circular E, Employer's Tax Guide
Pub 15-A	Employer's Supplemental Tax Guide
Pub 15-B	Employer's Tax Guide to Fringe Benefits
Pub 463	Travel, Entertainment, & Auto Expenses
Pub 517	Social Security and Other Information for Clergy
Pub 526	Charitable Contributions
Pub 1771	Charitable Contributions – Substantiation & Disclosure
Pub 571	Tax-Sheltered Annuity Plans (403(b) plans)
Pub 1828	Tax Guide for Churches and Religious Organizations

Other Resources

Other Publications

GuideStone Financial - Ministers Tax Guide

www.guidestone.org

Church & Clergy Tax Guide - Richard Hammer

Minister's Tax & Financial Guide – Dan Busby

Church Law & Tax Report

Church Finance Today

Web Sites:

Christian Ministry Resources – www.churchlawandtax.com

NACBA – www.nacba.net

Evangelical Council of Financial Accountability (ECFA)

www.ecfa.org

Questions ??????

Thank you

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