

MINISTERS AND TAXES

Dave Gunter, Partner
CapinCrouse LLP
2.26.20



Faith-Based Finance Collaborative

CPE CREDIT FOR THIS COURSE

There are three things needed in order for you to receive CPE credit for the course you are attending:

1. Sign the sign-in sheet for each course.
2. At the end of each course, you will receive a reminder to complete your course survey, and it will have a link to all surveys. Please only fill out the one for the course you just attended. You can also do this after the event if you don't have time in between sessions. And PLEASE don't forget to include your name, so we will know who to give credit to.
3. There will also be printable certificates available for you to download at the end of the conference. Please be sure to attend our last session to find out more!

Without these items we are not properly able to credit you for this course.

SESSION OBJECTIVES

At the end of this session you will be able to:

- Analyze whether a housing allowance designation has been made correctly.
- Assess a minister's W2 and note whether it has been completed correctly.
- Properly complete the housing allowance portion of the Form 990.

AGENDA

Minister Taxation

- Qualifying as a minister
- Who and What

Housing allowance

W2 issues

- Withholding/estimated taxes
- Social Security tax

Connection to the 990



MINISTER TAXATION

MINISTER TAXATION IS DIFFERENT

Housing allowance saves taxes

Withholding and estimated tax decisions

Social Security is paid differently

Bi-vocational possibility

Opportunities to make mistakes!!

INTERNAL REVENUE CODE SECTION 107

In the case of a minister of the gospel, gross income does not include

- (1) the rental value of a home furnished to him as part of his compensation; or
- (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities.

MINISTER: WHO AND WHAT

The person must fit the definition of a minister (WHO)

AND

Only payment for services performed in the exercise of ministry receive this tax treatment (WHAT)

- Bi-vocational ministers, non-church, secular settings

WHO IS A “MINISTER” FOR THE PURPOSES OF TAXATION?

Knight v. Comm’r, 92 T.C. 199 (1989)

- **Must** be “ordained, commissioned, or licensed”
- **Balancing test** for four other factors:
 - Administers sacraments
 - Conducts religious worship
 - Management responsibility in local church or religious denomination
 - Considered to be a religious leader by his or her church or denomination
- The presence or absence of any one of the four factors is not determinative

WHAT TASKS ARE CONSIDERED PERFORMED IN THE EXERCISE OF MINISTRY?

- (1) Control, conduct, or maintenance of a church or integral agency of a church; or
- (2) Sacerdotal functions or conduct of religious worship.

(1) CONTROL, CONDUCT, AND MAINTENANCE OF A CHURCH OR INTEGRAL AGENCY

Church & Integral Agency

Executive or Professional employee may be minister for taxation, even if not doing traditional minister tasks

- Church: Weekly, quarterly, annual meeting; affiliation of meetings
- Integral Agency: organization controlled by, or closely associated with, a church (e.g., denominational HQ, pension board, district superintendent)

(2) SACERDOTAL FUNCTIONS AND CONDUCT OF RELIGIOUS WORSHIP

- Traditional minister tasks include:
 - Preaching and leading worship services
 - Spiritual counseling
 - Evangelism
 - Administration of sacraments (Eucharist or communion)
 - Religious observances (baptism, marriage, funerals)
- Look at the faith tradition of that church or organization. Treas. Reg. 1.1402(c)-5(b)(2)
- NOTE: These do NOT need to be done in a church

ANOTHER PATH: LETTER OF ASSIGNMENT

A second path is through a letter of assignment from a church

If minister assigned by a religious body constituting his or her church works for an organization that is not a religious organization, work will be deemed services in the exercise of ministry. Treas. Reg. 1.1402(c)-5(b)(2)(v).

Assignment should occur **before** starting the job **and** should be directly related to accomplishing the church's purposes.

SUMMING UP THE WHAT

Two “minister work” definitions:

- **Working for church or integral agency:** performing traditional minister tasks, or work as a professional or executive
- **Working anywhere else:** only sacerdotal functions or conduct of religious worship, **unless** working under letter of assignment



HOUSING ALLOWANCE

INTERNAL REVENUE CODE SECTION 107

In the case of a minister of the gospel, gross income does not include

- (1) the rental value of a home furnished to him as part of his compensation; or
- (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance **does not exceed the fair rental value of the home**, including furnishings and appurtenances such as a garage, plus the cost of utilities.

WHAT ABOUT PARSONAGES?

Rental value of parsonage

- Must be valued (fair rental value)
- Subject to SECA
- This amount is automatically excluded (no need for designation)
- If there are other expenses (utilities, HOA fees, etc.) then those can be excluded from gross income **if** there is a designation and to the applicable limit (see next slides)

Parsonage allowance

- Must be designated in advance, used to pay for parsonage-related expenses, and subject to the applicable limit (see next slides)

HOUSING ALLOWANCE

The church board must designate housing allowance before it is paid (i.e., before beginning of the fiscal year, unless the minister start date is later in the year)

If not done by beginning of year/employment, can still do it for expenses **going forward**

Amount to be excluded from income is the **least** of:

- Amount designated
- Amount actually spent
- Fair rental value

WAYS IT CAN GO WRONG

Someone uses an old roster of employees for the church board to vote on

New minister starts but there is no designation and nothing in the offer of employment letter about a housing allowance

Staff member wants the housing allowance to be retroactively changed

HOUSING ALLOWANCE

Example:

Church-designated housing allowance: \$21,000
House payment:\$1200/month Utility bills: \$300/month
New sofa: \$500 Maintenance:\$1,000
 $(\$1,200 \times 12) + (\$300 \times 12) + \$500 + \$1,000 = \$19,500$
Real estate agent: house would rent for about \$2,000/month

Amount designated	\$21,000
Amount spent	\$19,500
Fair rental value	\$24,000

Eligible Exclusion	\$19,500
--------------------	----------

SOME QUESTIONS

- Does the Board have to approve all housing allowances?
- What about large down payments on a house? Extensive renovations?
- Can you designate a minister's entire salary as housing allowance?
- **Must** a minister be paid a housing allowance?



W2 ISSUES

MINISTER TAX REPORTING BY ORGANIZATION

If Employee: Form W-2 and employee benefits

- Same criteria as for other church workers in distinguishing “employee” from “independent contractor” for tax reporting and benefits purposes.
- No requirement to withhold federal income tax (and in most cases, state income tax)
- **“Deemed”** self-employed (like independent contractor) for Social Security tax. No withholding of FICA/Medicare tax from payroll.

MINISTER TAX REPORTING BY ORGANIZATION

Estimated Tax or Voluntary Withholding

- Minister employee not subject to income tax withholding and FICA/Medicare are not paid by church
- Default expectation is that a minister will pay quarterly estimated taxes
 - Payments are due on April 15, June 15, September 15, and January 15 of the following year
- However, minister can voluntarily authorize church to withhold
- Withheld amounts that would have been FICA/Medicare are just additional withholding

SECA – SELF-EMPLOYMENT TAX

SECA tax paid by ministers instead of the FICA/Medicare taxes paid by regular employees.

- Applies to regular compensation, the amount of the housing allowance, and to any other fees the minister has (e.g., weddings and funerals)
- SECA tax reported on Schedule SE, filed with minister's own Form 1040
- Some churches try to increase compensation to make up for the extra tax
- Voluntary Withholding Option

SECA – SELF-EMPLOYMENT TAX

A Minister can exempt out of SECA

- Must be conscientiously opposed to receiving the benefits of public insurance (such as Social Security/Medicare), with respect to services performed as a minister, because of personal religious beliefs
- Must file Form 4361 prior to the due date of the return for the 2nd year in which he or she has \$400 or more of ministerial income

LEGIT W2

22222		a Employee's social security number		OMB No. 1545-0008		
b Employer identification number (EIN)			1 Wages, tips, other compensation 33500.00		2 Federal income tax withheld	
c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld	
			5 Medicare wages and tips		6 Medicare tax withheld	
			7 Social security tips		8 Allocated tips	
d Control number			9		10 Dependent care benefits	
e Employee's first name and initial Last name Suff.			11 Nonqualified plans		12a	
			13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b	
			14 Other Housing: 9000.00		12c	
					12d	
f Employee's address and ZIP code						
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
		33500.00				

Form **W-2** Wage and Tax Statement
Copy 1 For State, City, or Local Tax Department

2016

Department of the Treasury—Internal Revenue Service

QUESTIONABLE W2 (IF YOU SEE SOMETHING, SAY SOMETHING)

Form W-2 Wage and Tax Statement 2018		7 Social security tips		1 Wages, tips, other comp.		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		8 Allocated tips		3 Social security wages		4 Social security tax withheld	
		9 Verification Code		5 Medicare wages and tips		6 Medicare tax withheld	
		10 Dependent care benefits		11 Nonqualified plans		12a See instructions for box 12	
Employee's name, address, and ZIP code		13 Statutory employee Retirement plan Third-party Sick pay		14 Other		12b	
Suff.		b Employer identification number (EIN)		MANSE 35580.00		12c	
		c Employee's social security no.				12d	
15 State Employer's State I.D. no.		16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.	
		108478.40		4624.00		19 Local income tax	
						20 Locality name	

Copy B To Be Filed With Employee's FEDERAL Tax Return

This information is being furnished to the Internal Revenue Service.
OMB No. 1545-0047

Dept. of the Treasury - IRS
Visit the IRS Web Site at www.irs.gov.



FORM 990 REPORTING OF MINISTER'S COMPENSATION

MINISTER'S FORM W-2 TO FORM 990 REPORTING

22222		a Employee's social security number		OMB No. 1545-0008	
b Employer identification number		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		211,377		81,538	
		3 Social security wages		4 Social security tax withheld	
		0.00		0.00	
		5 Medicare wages and tips		6 Medicare tax withheld	
		0.00		0.00	
		7 Social security tips		8 Allocated tips	
d Control number		9		10 Dependent care benefits	
e Employee's first name and initial		Last name		Suff.	
		11 Nonqualified plans		12a	
		13 Statutory employee		DD 5,832	
		Retirement plan		12b	
		Third-party sick pay		D 24,000	
		14 Other		12c	
		Housing 48,000		Part VII, column f Sch J, Part II, column c Narrative in Schedule O	
f Employee's address and ZIP code					
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax
					20 Locality name

Form **W-2** Wage and Tax Statement **2020** Department of the Treasury—Internal Revenue Service
Copy 1—For State, City, or Local Tax Department

MINISTER EMPLOYEE CONTRIBUTIONS TO RETIREMENT PLAN (403B, 401K, ETC.)

Report in Part VII, column f and Schedule J, Part II, column c

Add the following text to Schedule O:

Compensation reported in Part VII, column D and Schedule J, Part II, column B is the amount reported on the individual's W-2, box 1 or 5 (whichever amount is greater) per the IRS instructions. In the case of minister's compensation when box 5 of the W-2 is not applicable, box 1 compensation is used. Employee deferrals to qualified retirement plans are normally captured in box 5, not box 1 of Form W-2. For reporting purposes we have included the minister's retirement plan deferrals in Part VII, column F and Schedule J, Part II, column C.

SCHEDULE J, PART I, LINE 1A

1a Check the appropriate box(es) if the organization provided any of the following to or for a person listed on Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items.

- | | |
|--|---|
| <input type="checkbox"/> First-class or charter travel | <input type="checkbox"/> Housing allowance or residence for personal use |
| <input type="checkbox"/> Travel for companions | <input type="checkbox"/> Payments for business use of personal residence |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees |
| <input type="checkbox"/> Discretionary spending account | <input type="checkbox"/> Personal services (such as maid, chauffeur, chef) |

Part I, Line 1a Housing Allowance											
Sample wording for narrative:											
Pursuant to Internal Revenue Code Section 107, ministerial housing allowances are provided for qualifying ministerial employees. This is not included in taxable compensation. All officers met the qualifications for and received a ministerial housing allowance during the tax year.											

QUESTIONS?

THANK YOU!

Dave Gunter, Partner

 dgunter@capincrouse.com

 505.50.CAPIN ext. 2060

© Copyright CapinCrouse 2020