

The Minister and Taxes

(Provided by <http://www.StartCHURCH.com>)

One of the great benefits of being licensed and/or ordained is the fact that there are tax benefits. Over the last several years the tax benefits that ministers receive have come under some scrutiny by certain legal groups. As of yet the courts have ruled them to be constitutional and for that we can be thankful. There are two types of taxes for which a minister can receive relief. The first is federal income tax and the second is social security tax, otherwise known as self-employment tax. I will cover both of those taxes to give you a better understanding so that you can better take advantage of those benefits.

Federal Income Tax

The IRS does not really have a concrete definition of the word minister, but has used some court precedence for setting guidelines to say who is or is not a minister for federal tax purposes. The closest that any court has ever come to defining the word minister [clergy] was a 1985 Federal Appeals Court decision. The court concluded that the word minister “*does not depend upon ordination, but upon the function of the position.*” The court further concluded that the duties of the person are what make him/her clergy and not the actual ordination ceremony.

As a general rule, if the employee's primary duties consist of teaching, spreading the faith, church governance, supervision of a religious order, or supervision or participation in religious ritual and worship, he or she should be considered clergy.

This ruling has influenced the IRS to create its guidelines when it comes to identifying a minister for income tax purposes.

The federal court's conclusion does not mean that a person can be considered a minister for tax purposes without the church first licensing him/her and/or performing a licensing or ordination ceremony.

Under the current IRS regulations, with regard to income taxes all pastors are ministers, but not all ministers are pastors. This means that the function and duties performed by the minister will determine if he/she will qualify for any federal income tax relief. As a rule, a pastor is generally in charge of the congregation and performs all the functions that qualify a person for income tax relief. Yet, a minister in general who is not a pastor may not necessarily perform all the functions and duties that qualify him/her for income tax relief.

Housing Allowance

In 1921, congress passed the Revenue Act of 1921 that allowed a pastor to have a housing allowance so long as the church owned the home. It did not allow a pastor who owned or rented a home to have a housing allowance. It was not until 1954 that it changed, as stated in section 107(2) of the Internal Revenue Code, “the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.”

Ever since that day, churches have been able to design housing allowance plans for their pastors and ministers, which reduces their tax burdens, thus allowing their families to enjoy a higher quality of life.

In essence, for a person to qualify for the housing allowance as defined in section 107 of the Internal Revenue Code, he/she must be an ordained, licensed or commissioned minister of a church. There are certain activities that the minister will have to perform to be considered a licensed minister who qualifies

for the housing allowance. They are as follows:

- Performing sacerdotal functions.
- Conducting religious worship.
- Controlling, conducting, and maintaining religious organizations, boards, societies, and other integral agencies that are under the authority of a religious body that is a church or denomination. You are considered to control, conduct, and maintain a religious organization if you direct, manage, or promote the organization's activities.
- Performing administrative duties and teaching at theological seminaries. The school must be under the direct control of a church (Rev. Rul. 62-171).
- Performing the ordinary duties of a minister as an employee of the United States (other than as a chaplain in the Armed Forces), a state, possession, political subdivision, or the District of Columbia.

Social Security (Self-Employment Taxes)

For social security purposes the IRS defines ministers in the following manner:

Ministers are individuals who are duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination. They are given the authority to **conduct religious worship, perform sacerdotal functions, and administer ordinances or sacraments according to the prescribed tenets and practices of that church or denomination**. If a church or denomination ordains some ministers and licenses or commissions others, anyone licensed or commissioned must be able to perform substantially all the religious functions of an ordained minister to be treated as a minister for social security purposes.

Although the IRS uses five guidelines to define who is eligible for the housing allowance, it only uses three to determine who is eligible for social security exemption. Although without doing the following three things a person may still be recognized as a minister by other government agencies, the IRS does not recognize anyone as a minister unless he/she performs the following three functions. Therefore, if one wants to be recognized by ALL government agencies (which includes the IRS) then he/she must regularly fulfill the functions as stated below.

1. Perform sacerdotal functions.
2. Conduct religious worship.
3. Control, conduct, and maintain religious organizations, boards, societies, and other integral agencies that are under the authority of a religious body that is a church or denomination.

Under this definition all pastors and associate pastors are ministers. Most youth pastors and worship leaders will also qualify. The three functions mentioned above should be met on a regular basis.

How to Become Exempt from Social Security/Self Employment Taxes

Before 1968, ministers were automatically exempt and had to file form 2031 in order to be covered under social security. That changed in 1968. Now ministers who meet the IRS requirements of a minister are required to file for exemption from social security by filing form [4361](#) with the IRS. The form has to be filed with the IRS no later than April 15th of the second tax year that the minister has received income as a minister in excess of \$400.00. This exemption only applies to income earned as a minister. Meeting the three point test is still not enough. There are some additional conditions that must be met.

Social security taxes and self-employment taxes are one and the same. Social security (FICA) is the way taxes are withheld from an employee, and self-employment (SECA) taxes are the way sole proprietors and other self-employed people pay taxes for their social security.

To qualify for the exemption, the minister must meet the following 6 conditions.

1. You are conscientiously opposed to public insurance because of your individual religious considerations (not because of your general conscience), or you are opposed because of the principles of your religious denomination.

This means that you trust God to be your sole provider and that you oppose depending on government programs to provide for your needs. Many ministers sincerely trust God to be their sole providers and conscientiously oppose receiving social government help.

2. You file for other than economic reasons. You inform the ordaining, commissioning, or licensing body of your church or order that you are opposed to receiving public insurance as a minister or a member of a religious order (other than a vow-of-poverty member).

3. You inform the ordaining, commissioning, or licensing body of your church or order that you are opposed to public insurance if you are a minister or a member of a religious order (other than a vow-of-poverty member). This should be in writing. A simple statement as shown below will be enough.

I am opposed to receiving public insurance as a minister of the gospel. I sincerely trust that God will provide for me all the days of my life.

Sincerely,

Rev. John Townsend

4. You establish that the organization that ordained, commissioned, or licensed you, your religious order, is a tax-exempt religious organization.

Although all churches are automatically tax-exempt, we recommend that

5. You establish that the organization is a church or a convention or association of churches.

6. You sign and return form 4361 and you certify that you are requesting an exemption based on the grounds listed on the form. Additionally, Internal Revenue Code requires that IRS or the Secretary of the Department of Health and Human Services verify “that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption . . . and that the individual seeks an exemption on such grounds. A copy of form 4361 may be found in the Appendix.

How the Approval Process Works

After you submit your signed form 4361, the IRS will verify that you are “aware of the grounds for exemption and that you want the exemption on that basis” (Pub 517). They will mail to you a statement that “details that the grounds for which you are receiving the exemption are under section 1402(e) of the Internal Revenue Code. You must certify that you have read the statement and seek exemption on the grounds listed on the statement.” After you receive the statement from the IRS you have to verify that you have read it and sign it “under penalties of perjury” and mail it to the return address listed in the instructions. Your exemption is not valid until they have received the signed statement and you have received written confirmation back from them. It is a good idea to send it certified mail or first class mail with delivery confirmation.