



Who is a Minister for Tax Purposes?

This memo is written as a help guide for the Church of God

"Who is a ministerial employee for tax purposes?" The answer is significant because it affects how an individual reports compensation and pays taxes. Perhaps the greatest single issue this affects is how to report the value of housing provided and/or the amount of housing allowance paid. (See MEMO #1 "Housing for Your Pastor: Parsonage or Housing Allowance?"; MEMO #10 "The Minister's Housing Allowance"; and MEMO #3 "Tax and Reporting Procedures for Congregations.")

The Church has several different classifications of ministry designations. They are separated on the basis of one or more of the following criteria: experience, training, and calling. Likewise, the United States government has tax laws especially applicable to "ministers." However, not everyone who might be recognized as a "minister" by the Church would be considered as such by the tax laws.

It is the responsibility of the ministerial employee, as well as the church employer, to comply properly with such laws and regulations. The question *"Who is a minister for tax purposes?"* then is significant. To answer this question, answers are needed to related questions such as: Who do the IRS and Tax Courts consider to be a minister? To whom does the Church give authority to perform these "recognized" duties of a minister?

The IRS Definition

The Internal Revenue Service uses the term "Minister of the Gospel" and, in the Income Tax Regulations, elaborates that a minister is one who is "duly ordained, licensed, or commissioned" *and* who performs service in the exercise of his or her ministry. This includes the ministration of sacerdotal functions, the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including integral agencies) under the authority of a church denomination. According to the Income Tax Regulations, "the following rules are applicable in determining whether services performed by a minister are performed in the exercise of his or her ministry" and whether his or her activity and role are recognized as that of a minister by the IRS:

- i. Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular religious body constituting his church or church denomination.
- ii. Service performed by a minister in the control, conduct, and maintenance of a religious organization relates to directing, managing, or promoting the activities of such organization.
- iii. If a minister is performing service in the conduct of religious worship or the ministration of sacerdotal functions, such service is in the exercise of his ministry whether or not it is performed for a religious organization.
- iv. If a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the conduct of religious worship, in the ministration of sacerdotal functions, or in the control, conduct, and maintenance of such organization is in the exercise of his ministry. (An "integral agency" for the Church of God would be any of our universities/colleges; seminaries; state, district, and the national agencies.)
- v. If a minister, pursuant to an assignment or designation by a religious body constituting his church, performs service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization, all service performed by him or her, even though such service may not involve the conduct of religious worship or the ministration of sacerdotal functions, is in the exercise of his/her ministry.

Ministerial Classifications

The Licensed Minister

The licensed minister is one who has been granted a ministerial license by the state or district assembly. The licensed minister is to have completed at least one year of the course of study. The licensed minister who is preparing for ordination is vested with the authority of preaching the gospel, administering the sacraments in his or her own congregation, and officiating at marriages where state law allows. The licensed minister who is preparing for ordination is vested with the authority of using his or her gifts in various associate ministries, administering the sacraments and, on occasion, conducting worship and preaching.

The Ordained Minister

The ordained minister is one who has been ordained to that order, has completed the course of study, and has completed a specified period of assigned ministry. The ordained minister acknowledges a specific call to lifetime ministry. The ordained minister has the authority to administer the sacraments and to conduct worship and to preach.

How the Courts Have Ruled

Court action in 1989 established five factors when determining whether one is a minister for tax purposes.

1. Does the individual administer the sacraments?
2. Does the individual conduct worship services?
3. Does the individual perform services in the "control, conduct, or maintenance of a religious organization" under the authority of a church denomination or religious denomination?
4. Is the individual "ordained, commissioned, or licensed?"
5. Is the individual considered a spiritual leader by his or her religious body?

If you meet some but not all of these factors, the IRS may or may not consider you a minister. Under the 1989 tax court case, not all factors had to be satisfied. It should be noted that only factor 4, that one be "licensed, ordained, or commissioned," needs to be present in *every* case. The more of the remaining criteria that one can meet, the more likely one is to fulfill the definition of "minister of the Gospel." (However, some more recent court cases and an IRS Private Letter Ruling have required that all factors be satisfied. Nevertheless, according to leading church law experts, the 1989 case is still viable precedent. The Income Tax Regulations noted previously remain the reliable source for determining ministerial qualification.) Also, the Tax Court has not recognized persons as ministers for tax purposes solely on the basis that they were licensed in order to gain tax benefits. In other words, if one seeks a license or ordination simply to gain tax benefits rather than the rights and privileges associated with it, then the IRS likely would not view that individual as a minister for tax purposes.

How the Rules are Applied

Generally, there are two "qualifications" for recognition as a minister for tax purposes:

1. a proper credentialing which gives one the ability to perform certain services in the exercise of ministry; and
2. the actual performance of services in the exercise of the individual's ministry.

First of all, the individual must be recognized by the denomination as one authorized to do the work of ministry (preach the Word, conduct worship, administer the sacraments, perform marriages). The IRS and the Tax Courts would understand this to be one duly ordained, licensed, or

commissioned. For individuals in the Church of God, *this means being licensed at the state or area level.*

Second, the minister must perform tasks which qualify him or her for tax benefits (conduct worship; preach the Word; administer the sacraments; direct, manage, or promote in order to maintain the religious organization; work in an integral agency of the denomination to control, direct, or manage that institution; or be assigned by the denomination to a specific task).

Some Examples:

The following brief examples may be helpful as general applications:

Example 1: Abbot is ordained and pastors First Church. Abbott conducts worship and administers the sacraments. Abbott is a minister for tax purposes.

Example 2: Burns is licensed and pastors First Church. Burns conducts worship and administers the sacraments. Burns is a minister for tax purposes.

Example 3: Clarke is a lay pastor at First Church. Clarke conducts worship, yet may not administer the sacraments. Clarke is not a minister for tax purposes.

Example 4: Dunn is licensed and is an associate pastor at First Church. Dunn occasionally conducts worship and administers the sacraments. Dunn is a minister for tax purposes.

Example 5: Edwards has no credentials or license and is an associate pastor at First Church. Edwards occasionally conducts worship. Edwards is not a minister for tax purposes.

Example 6: Franke is ordained and maintains the buildings and grounds at First Church. Franke never conducts worship or administers the sacraments as an employee of First Church. Franke is not a minister for tax purposes for services performed for First Church.

Example 7: Guthrie is licensed and works for an agency of the church in an administrative roll. Guthrie is a minister for tax purposes.

Example 8: Hughes is ordained and teaches at a Church of God college or university. Hughes is a minister for tax purposes.

Example 9: Ingland is ordained and retired from full-time ministry. For certain benefits paid to him by his denomination for his service as a minister, he is considered a minister for tax purposes.

Example 10: Jacobs is a registered minister of music or song evangelist. Jacobs is not a minister for tax purposes unless he also holds a minister's license or is ordained.

Disclaimer

The information contained in this MEMO series is of a general nature. It is not offered as specific legal or tax "advice." Each person and local church board should evaluate their own unique situation in consultation with their local legal and tax advisors.

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