

**Housing Allowance  
and  
Other Issues for Clergy Serving  
“Outside the Pulpit”**

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# Clergy Serving “Outside Pulpit”

Code section 414(e)(5) allows following clergy to participate in denominational plan, but only if the minister is performing services in the exercise of ministry:

- Self-employed ministers; and
- Chaplains, or other ministers serving outside the pulpit.

Note: Statutory language for “chaplains” needs to be revised to reflect Congressional intent.

# Self-Employed Clergy

- Can participate in denominational plan;
- Treated as his/her own employer, which is a 501(c)(3) organization;
- For purposes of participation in denominational 403(b) plan, minister's "includible compensation" is determined with reference to the minister's earned income (not the amount of compensation which is received from an employer);
- Can take a deduction for contributions made to denominational plan (as long as the contributions are within section 415 contribution limits).

# Chaplains

- Employer can contribute to denominational plan on behalf of “chaplain.”
- Statutory language is problematic:
  - Code section 414(e)(5)(A)(i)(II): “A duly ordained, commissioned, or licensed minister of a church . . . if, in connection with the exercise of their ministry, the minister . . . is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.
  - Publication 517: “minister or chaplain . . . in the exercise of your ministry [and] employed by an organization that is not exempt from tax under section 501(c)(3) of the Internal Revenue Code.”

# Chaplains

- Contributions are not included in chaplain's gross income (to the extent that contributions are within section 415 contribution limits).
- Employer does not need to treat chaplain as an employee for purposes of nondiscrimination and coverage testing under employer-sponsored plan.

Note: No “double-dipping.” Contributions cannot be made by or on behalf of “chaplains” to two different employer plans based on same compensation.

# Housing Allowance – Eligibility

## Eligibility

- Ministers of the gospel, performing services in the exercise of their ministry.
- Chaplains and self-employed ministers who are eligible to participate in denominational plan must be performing services in exercise of ministry.
- So if chaplain or self-employed minister is eligible to participate in plan, he/she will be eligible for housing allowance (both actives and retirees).

# Services in the Exercise of Ministry

- Performance of sacerdotal functions;
- Conduct of religious worship;
- Administration and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations);
- Performance of teaching and administrative duties at theological seminaries;
- Service pursuant to an assignment or designation by a religious body constituting church. (Note: Assignment or designation must be more than pro-forma.)

# Housing Allowance Designation

- Housing allowance must be designated in advance by employing church or other “qualified organization.”
- Who can make designation for “chaplain”?
  - Query: Can non-church organization employing chaplain make designation?
- Who can make designation for self-employed minister?

# Housing Allowance Designation

When to make designation –

- Prospective only – covers only those housing expenses incurred after designation.
- Best to be made before beginning of year.
- Query: Does designation have to be made every year?

# Maximum Exclusion

- Housing allowance exclusion cannot exceed lesser of following:
  - Amount designated by church or other “qualified organization;”
  - Actual housing expenses;
  - Fair rental value of the home (plus utilities).

# Retirement Plan Payments

Designation on retirement payments from –

- Denominational plan
- Retirement plan sponsored by individual church
- Retirement plan sponsored by non-church employer (i.e., employer of chaplain)
- Individual IRA

Query: Who can make designation for each of these plans?

# Retirement Plan Payments (cont'd)

Rev. Rul. 63-156: Rental allowance paid to retired minister as part of his compensation for past services is excludable to the extent used by him for expenses directly related to providing a home.

Rev. Rul. 75-22: Denominational pension board can designate portion of a retired minister's pension distributions as housing allowance. The trustees of the fund are "deemed to be acting on behalf of the local churches in . . . compensating retired ministers for . . . past services."