



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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Dear _____ :

This is in response to your request for a letter ruling concerning compensation issues relevant to members of the clergy, primarily housing and automobile allowances. As a preliminary matter, apart from the procedures for issuing a formal opinion as described in Revenue Procedure 2005-1, 2005- I.R.B. 1, which include power of attorney and user fee requirements, the Internal Revenue Service is not able to provide binding legal advice to particular taxpayers. However, in the absence of a request for formal guidance, we are able to provide general information related to your request, which we hope will be helpful to you.

The rules governing whether a housing allowance is excludible from gross income are provided in section 107 of the Internal Revenue Code (Code) and section 1.107-1 of the Income Tax Regulations. Under these provisions, a minister of the gospel may exclude from gross income either the rental value of a home furnished as part of compensation (a "parsonage") or a rental allowance (often referred to as a "housing allowance" or "parsonage allowance") paid as part of compensation, to the extent used to rent or provide a home and to the extent the allowance does not exceed the fair rental value of the home.

Section 1.107-1(b) of the Income Tax Regulations provides, in part, that for purposes of section 107, the term "home" means a dwelling place (including furnishings and the cost of utilities) and the appurtenances thereto, such as a garage. The term "rental allowance" means an amount paid to a minister to rent or otherwise provide a home if such amount is designated as a rental allowance pursuant to official action taken (e.g., meeting minutes, resolutions, budget line item) in advance of such payment by the employing church or other qualified organization.

Section 1.107(c) of the regulations provides that a rental allowance must be included in the minister's gross income in the taxable year in which it is received, to the extent that such allowance is not used by him during such taxable year to rent or otherwise provide a home.

Circumstances under which a rental allowance will be deemed to have been used to rent or provide a home will include cases in which the allowance is expended for rent of a home, for purchase of a home, and for actual expenses directly related to providing a home.

A minister is treated as self-employed for employment tax purposes, even though the minister may be a common-law employee for income tax purposes. This treatment results from the statutory provisions of the Federal Insurance Contributions Act (FICA) and the Self-Employment Contributions Act (SECA). FICA excludes a minister's services from the definition of "employment" for FICA purposes. See Code section 3121(b)(8). Correspondingly, SECA includes a minister's services as a trade or business for SECA tax purposes. See Code section 1402(c). Further, section 1402(a)(8) provides generally that self-employment income is calculated without regard to the income exclusion provided in section 107 prior to the minister's retirement. Section 1402(e) provides for a limited exemption from SECA for certain ministers, members of religious orders, and Christian Science practitioners. For more information on housing allowances, please refer to Publication 517, *Social Security and Other Information for Members of the Clergy and Religious Workers*.

Regarding an automobile allowance, one practical option is provided in Revenue Procedure 2004-64, 2004-49 I.R.B. 898, which provides an optional standard mileage rate, currently 40.5 cents per mile, as the rate that may be used when accounting for expenses for business use of an automobile under a reimbursement arrangement. This revenue procedure contains the detailed rules related to reimbursing expenses for an employee's business use of an automobile under this option. However, a bona fide reimbursement arrangement must preclude the recharacterization as a mileage allowance of amounts otherwise payable as wages. See section 1.62-2(j), example (1), of the Regulations, and Rev. Rul. 2004-1, 2004-4 I.R.B. 325. Please see Publication 463, *Travel, Entertainment, Gift and Car Expenses*, for more information.

I hope this information has been helpful. All of the above referenced publications can be found at www.irs.gov/formspubs/index.html . Please call me or of my staff at _____ if you have any questions about the information explained here or if you have questions regarding a formal opinion.

Sincerely,

Joseph W. Spires
Assistant Chief, Employment Tax Branch 1
(Exempt Organizations/Employment Tax)
(Tax Exempt & Government Entities)