



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Amy Klobuchar
1200 Washington Avenue South
Suite 250
Minneapolis, MN 55415

Attention:

Dear Senator Klobuchar:

I apologize for the delay in responding to your inquiry dated, July 14, 2010, on behalf of your constituent, . He asked about the taxability of ministerial housing or parsonage allowances that churches grant to retired ministers.

also asked about obtaining a determination letter on his retirement housing allowance.

Parsonage Allowances

A "minister of the gospel" can exclude from income the rental value of a home the church furnishes as part of his or her compensation or the rental allowance it pays under the same circumstances to the extent the minister uses the allowance to rent or provide a home and to the extent the allowance does not exceed the fair rental value of the home [section 107 of the Internal Revenue Code (Code)].

The home or rental allowance the religious organization provides must be as payment for services that ordinarily are the duties of a minister of the gospel. Section 1.107-1(a) of the Income Tax Regulations. The duties that ministers ordinarily perform are:

- sacerdotal functions,
- conducting religious worship, and
- controlling, conducting, and maintaining religious organizations (including religious boards, societies, and other integral agencies of such organizations)

under the authority of a religious body.

[Section 1.1402(c)-5(b)(2) of the Income Tax Regulations.]

Evidence of the designation of an amount as rental allowance may be an employment contract, minutes, a resolution or budget by a church or other qualified organization, or any other appropriate instrument recording such official actions [section 1.107-1(b) of the Income Tax Regulations]. An individual cannot exclude the amount designated as rental allowance from gross income if the amount received during the taxable year is either greater than the amount used to rent or provide a home during the taxable year or the fair rental value of the home (including furnishings and appurtenances) plus the cost of utilities for the taxable year.

Annuities and Pensions

A retired minister may exclude from gross income a parsonage allowance provided as compensation for past services (Revenue Ruling 63-156, 1963-2 C.B. 79). In addition, the governing body of a religious denomination may set up a retirement fund that designates a portion of a retired minister's pension as a parsonage allowance as compensation for past services. We stated in Revenue Ruling 75-22, 1975-1 C.B. 49, that a national governing body of a religious denomination having complete control over a retirement fund can designate a portion of a retired minister's pension as a rental allowance. This rental allowance is excludable from the retired minister's gross income to the extent section 107 of the Code allows because the trustees of the general pension plan are deemed to be acting on behalf of the local churches in which the retired clergy performed services as ministers of the gospel.

Rulings and Determination Letters

Whenever appropriate in the interest of sound tax administration, we answer inquiries of individuals and organizations on the application of the Code to their specific situations. Revenue Procedure 2010-1, 2010-1 I.R.B. 1, provides the procedures for obtaining a letter ruling or determination letter.

We cannot issue rulings or determinations in certain areas because of the inherently factual nature of the questions involved or for other reasons (Revenue Procedure 2010-3, 2010-1 I.R.B. 110). One of these areas is whether a retired minister can exclude from gross income amounts received from a pension or annuity plan as a parsonage or housing allowance (section 107 of the Code). Therefore, we cannot assist with his request for a determination letter.

I hope this information is helpful. If you need further information, please contact
at .

Sincerely,

Janine Cook
Chief, Employment Tax, Branch 1
Division Counsel/Associate Chief
Counsel
(Tax Exempt & Government Entities)