

Is a Minister an Employee or Self-Employed?

Who is a Minister for Tax Purposes?

Before classifying workers as an employee or self-employed, a church must determine whether each worker qualifies as a minister for tax purposes. Having “minister” in the title or ministerial duties in a job description is not enough. The IRS uses the five criteria listed below to determine if one is a minister.

- **Ordained, Licensed, or Commissioned**
- **Administers Ordinances or Sacraments**
- **Conducts Worship**
- **Performs services in the “control, conduct, or maintenance of a religious organization”**
- **Considered to be a spiritual leader by the related religious body**

Being ordained, licensed or commissioned is required. Application of the other four criteria has varied based on various tax court cases and IRS guidance. Generally, an individual will be considered a minister for tax purposes if ordained, licensed, or commissioned as a minister, and the duties for which they were employed are those of a minister.

Once a determination is made that someone qualifies as a minister, it is critical that their treatment as a minister be consistent for all tax issues. *(For example, the individual should not be treated as a minister for income taxes and as a non-minister for social security taxes.)*

Is the Minister an Employee or Self-Employed?

After determining which workers qualify as ministers, the next step in correctly structuring compensation and reporting it to the IRS is to make sure all worker’s employment status is classified correctly according to IRS rules and regulations. Tax laws differ for each type of worker. Churches often have workers in three categories:

1. Minister Employees
2. Non-Minister Employees
3. Independent Contract Workers

For FEDERAL INCOME TAX, common law rules apply in determining if you are an employee or self-employed. Generally, if you perform services subject to the will and control of an employer, both as to what will be done and how it will be done, you are an employee. It does not matter that an employer may allow considerable discretion and freedom of action, as long as the employer has a legal right to control both the method and result of the service.” - IRS Publication 517

The US Tax Court has used a “**seven factor**” test in rulings about employment status of clergy. In stressing the “right to control” element, the court further stated that “the threshold level of control necessary to find employee status is generally lower when applied to professional services than when applied to non-professional services.” The seven factors are a condensed version of 20 criteria the IRS has used for many years in determining whether any worker is an employee or self-employed. This test applies the following seven factors:

1. The degree of control exercised (or right to control) by the employer over the details of the work.
2. Which party invests in the facilities used in the work?
3. Opportunity for the individual to realize a profit or loss.
4. The right of the employer to discharge the individual.
5. If the work is part of the employer’s regular business?
6. The permanency of the relationship.
7. The relationship the parties believe they are creating.

For SOCIAL SECURITY the rules are different. Three federal taxes are paid on wages and self-employment income: Federal Income Tax, Social Security Tax and Medicare Tax. Social Security and Medicare Tax are collected under one of two systems. Under the Federal Insurance contribution Act (FICA), the employee and employer each pay half of the social security and Medicare taxes. Under the Self-Employment Contribution Act (SECA), the self-employed person pays all the taxes. No earnings are subject to both Social Security systems.

For many years, ministers have consistently been considered self-employed when it comes to Social Security. The following quote from IRS Publication 517 makes this clear: *“The services you perform in the exercise of your ministry are covered by Social Security under the Self-Employment Contributions Act. Therefore, the earnings you receive for performing these services are subject to self-employment tax.”*

It's appropriate here to briefly note a couple things about reporting wages of ministers to the IRS. Since most ministers should be treated as employees for income tax purposes, they should receive a W-2 form from the church. But, ministers are specifically exempted from required income tax withholding. Income Tax withholding may be done on a voluntary basis. (If no voluntary withholding is done, the minister should then submit quarterly estimated tax payments.) And, no ministerial income or withholding should be reported on a W-2 form in boxes pertaining to Social Security. The church cannot pay anything to the IRS for the minister under the heading of Social Security and all W-2 Social Security boxes should be left blank.

Summary

- **“MINISTERS”** are ordained, licensed or commissioned to the ministry and the duties for which they were employed are those of a minister.
- Most ministers (as defined above) will have a **DUAL TAX STATUS . . .**
- Most ministers should be treated as an **EMPLOYEE for Income Tax Purposes.**
- ALL ministers should be treated as **SELF-EMPLOYED for Social Security purposes.**

Tax laws and methods of compensation for ministers are unique. Many tax professionals and IRS personnel are not adequately aware of unique rules for ministers, especially the dual tax status. In seeking guidance about ministerial tax and compensation issues a church should make sure the person being consulted thoroughly understands these unique issues for ministers and churches.