

WHO IS A “MINISTER”

Note: The Supreme Court’s decision in the Hosanna-Tabor case affirming the existence of a ministerial exception in employment disputes between churches and their ministers prevents the civil courts from resolving these claims. The Court concluded that a called teacher in a Lutheran school was a minister, due to the four factors listed in the

table below. The table applies the Court’s definition to common church staff positions. Also, note that the term *minister* has different meanings in different contexts. This table is only addressing the definition in the context of the ministerial exception. The letters at the top of the columns refer to different kinds of minister as explained below the table.

THE FOUR FACTORS APPLIED BY THE SUPREME COURT IN DETERMINING “MINISTER” STATUS

| | A | B | C | D | E | F |
|--|-----|-----|----------|----------|----|----------|
| 1. Formal title (i.e., commissioned minister) bestowed by the church | x | x | x | | | x |
| 2. Ministerial status conferred following formal religious training and an oral exam | x | x | x | | | x |
| 3. The individual holds himself or herself out as a minister (i.e., by claiming a housing allowance, accepting a formal call to religious service) | x | x | x | | | |
| 4. Job duties demonstrate a role in conveying the church’s message and carrying out its mission | x | x | x | x | x | |
| The individual is a minister | yes | yes | probably | unlikely | no | unlikely |

A: The plaintiff in the Hosanna-Tabor case.

B: Jon is an ordained lead pastor of a church, and a seminary graduate. He was ordained by a denominational entity following the satisfaction of several requirements including education, references, interview, and written examination. His church treats him as a minister for tax purposes (it does not withhold income taxes or FICA taxes from his wages and designates a portion of his wages each year as a housing allowance).

C: Jan is a licensed minister who serves as the music minister of her church. She is authorized to perform most if not all of the religious functions of an ordained minister in her church. She has not had any formal religious education (her undergraduate degree is in music from a state university). She was licensed by a denominational entity following the satisfaction of several requirements including education, references, interview, and written examination. Jan’s church treats her as a minister for tax purposes (it does not withhold income taxes or FICA taxes from her wages and

designates a portion of her wages each year as a housing allowance).

D: Same facts as “C,” except that Jan is not an ordained or licensed minister and is not treated as a minister by her church for tax purposes.

E: Tim is employed full-time by a church as a youth pastor. He is not licensed or ordained, but his church considers him to be a “minister” because his duties are directly linked to carrying out the church’s mission. However, Tim does not believe he qualifies as a minister for tax purposes because he is not ordained or licensed, and so he advises the church to treat him as a nonministerial employee (the church withholds income taxes and FICA taxes from his wages and does not designate any portion of his wages as a housing allowance).

F: Ted is an ordained minister who is serving as the business administrator for a church. The church does not treat him as a minister for tax purposes, and his duties are almost exclusively administrative with no direct association with the church’s mission.