



DESIGNATING A MINISTER'S ENTIRE SALARY AS A HOUSING ALLOWANCE

Question We have a part-time associate pastor who has asked the church to designate his entire salary as a housing allowance. Do we need to issue him a W-2 form at the end of the year reporting no income?

Answer This is a surprisingly complex question. Here's why. Until 1974, section 6051 of the federal tax code required a Form W-2 to be issued to (1) each employee from whom income, Social Security, or Medicare tax is withheld or (2) each employee from whom income tax would have been withheld if the employee had claimed no more than one withholding allowance or had not claimed exemption from withholding on Form W-4. Churches were not required to issue a W-2 to pastors under this provision, since their wages are exempt from tax withholding.

In 1974 Congress enacted a massive pension law (the Employee Retirement Income Security Act, or ERISA). This law added the following phrase to section 6051: "Every employer engaged in a trade or business who pays remuneration for services performed by an employee, including noncash payments, must file a Form W-2 for each employee." Unfortunately, the legislative history contains no explanation of why this language was added. In any event, it was broad enough to require churches to issue a Form W-2 to ministers even though they are not subject to tax withholding.

The 1974 amendment created some ambiguities, and the stated question highlights one of them. Read literally, the revised section 6051 requires a church to issue a Form W-2 to a minister even though all of the minister's income is designated as a housing allowance, no amount is shown in box 1 (wages), and no withholdings of income taxes or Social Security or Medicare taxes are reported. Why? Because the church is an employer "engaged in a trade or business who pays remuneration for services performed by an employee, including noncash payments." Of course, submitting to the IRS a Form W-2 that identifies a minister by name and Social Security number but has blank boxes for income and withholdings is not consistent with the purpose of the form, which is to report wages and withholdings to the IRS to ensure that the correct amount of taxes are paid. This purpose is not furthered by submitting blank forms. This, however, does not necessarily mean that a church is relieved of its obligation to issue a Form W-2.

In 2000 the IRS addressed the question of whether election workers should be issued W-2 forms. Election workers are individuals who are generally employed to perform services for state and local governments at election booths in connection with national, state, or local elections. Government agencies typically pay election workers a set fee for each day of work. The IRS quoted section 6051 of the tax code and concluded that this section "does not require reporting of compensation that is not subject to withholding of FICA tax or income tax. . . . Section 6051 requires reporting of compensation subject to either FICA tax or income tax withholding. No reporting is required . . . for items of income that are not subject to withholding of FICA tax or income tax. If an election worker's compensation is subject to withholding of FICA tax, reporting is required by section 6051 regardless of the amount of compensation." *IRS Revenue Ruling 2000-6*.

This ruling suggests that a church may not be required to issue a W-2 to a part-time pastor whose entire income is designated as a housing allowance.

The IRS operates a centralized call site to answer questions about reporting information on W-2 forms. If you have any questions about completing a Form W-2, call the IRS at 1-866-455-7438, Monday through Friday, 8:30 a.m. to 4:30 p.m. Eastern time.