CHRISTIAN MANAGEMENT ASSOCIATION

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A Pastor's Vow of Poverty Did Not Exempt Him from Income, and Self-Employment Tax

Background

The pastor signed a vow of poverty in which he agreed to give all his property and future income to the church. In return the church agreed to provide for his physical, financial, and personal needs, including his housing, all ministry expenses, and any other needs. The church established an apostolic bank account. The pastor had control over the account.

Under audit, the pastor did not dispute the fact that the church and related entities paid his personal expenses but claimed that his vow of poverty insulated him from being taxed on the amounts paid on his behalf by the church.

IRS Position

The IRS subsequently ruled that the pastor was not exempt from liability for federal income tax and self-employment taxes (SECA) on amounts his church paid for his support.

Their position was based on a 1977 revenue ruling (*Rev. Rul. 77-290*, 1977-2 CB 26) which states that *income earned by a member of a religious order for services performed directly for the order, or for the church with which the order is affiliated, and remitted back to the order in conformity with the member's vow of poverty is not includible in the member's gross income.* However, in this case, the pastor did not remit any income earned from the church back into church control pursuant to his vow of poverty; the payments the church made on his behalf served only to benefit the pastor by meeting his living expenses. Therefore, the IRS ruled the payments must be included in his gross income.

The IRS also ruled the pastor was liable for self-employment tax. (*A duly ordained, commissioned or licensed minister of a church carrying on his ministry is liable for self-employment tax on income derived from his ministry unless an exemption certificate [Form 4361 or 4029] is timely filed and approved).* The time limitation is mandatory and must be strictly complied with. However, the individual did not timely file an application for exemption from self-employment for any of the tax years at issue. Therefore, the individual did not qualify for an exemption from self-employment tax. (*Ref. R.W. White, TC Memo. 2016-167, Dec. 60,690(M))*

This is an important reminder for ministers and others who might be considering how best to make use of current tax regulations to minimize the tax owed on wages earned from the performance of their ministerial duties. The bottom line in any such attempt is to remember that when funds belonging to the church are re-directed to the personal benefit of an individual, minister or otherwise, the funds are deemed to be income to the benefiting individual regardless of other circumstance. That was the case in this situation. Although the minister had taken a

vow of poverty he continued to receive personal benefit from the wages earned as a minister. Thus the monies were reportable as income to him and subject to tax.

The same logic applies in situations where church assets, such as vehicles or equipment, are used for personal benefit. When this occurs the employer is required to determine the fair market value of the benefit, report it on the W-2 of the benefiting individual, and withhold and pay any applicable taxes that may apply.

If you have any questions about where certain transactions or situations currently happening at your organization might require reporting feel free to contact our office or make use of our e-consulting program to get the answers you need to help keep your ministry compliant.
