

# MEMO #12

Pensions and Benefits USA

## Who Is a Minister for Tax Purposes?



**See:** MEMO #1, “Housing for Your Pastor: Parsonage or Housing Allowance?”; MEMO #13, “The Minister’s Housing Allowance”; and MEMO #3, “Tax and Reporting Procedures for Congregations.”

*“Who is a ministerial employee for tax purposes?”* The answer is significant because it affects how an individual reports compensation and pays taxes. Perhaps the greatest single issue this affects is how to report the value of housing provided and/or the amount of housing allowance paid. (See MEMO #1, “Housing for Your Pastor: Parsonage or Housing Allowance?”; MEMO #13, “The Minister’s Housing Allowance”; and MEMO #3, “Tax and Reporting Procedures for Congregations.”)

The Church of the Nazarene has several different classifications of ministry designations. They are separated on the basis of one or more of the following criteria: experience, training, and calling. Likewise, the United States government has tax laws especially applicable to “ministers.” However, not everyone who might be recognized as a “minister” by the Church would be considered as such by the tax laws. It is the responsibility of the ministerial employee, as well as the church employer, to comply properly with such laws and regulations. The question “Who is a minister *for tax purposes*?” then is significant. To answer this question, answers are needed to related questions such as: Who do the IRS and Tax Courts consider to be a minister? To whom does the Church of the Nazarene give authority to perform these “recognized” duties of a minister?

### The IRS Definition

The Internal Revenue Service uses the term “Minister of the Gospel” and, in the Income Tax Regulations, elaborates that a minister is one who is “duly ordained, licensed, or commissioned” *and* who performs service in the exercise of his or her ministry. This includes the ministration of sacerdotal functions, the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including integral agencies) under the authority of a church denomination. According to the Income Tax Regulations, “the following rules are applicable in determining whether services performed by a minister are performed in the exercise of his or her ministry” and whether his or her activity and role are recognized as that of a minister by the IRS:

- (i) Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular religious body constituting his church or church denomination.
- (ii) Service performed by a minister in the control, conduct, and main-



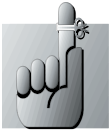
**Remember!** IRS regulations require that “ministers” be “duly ordained, licensed, or commissioned” *and* perform certain duties in the exercise of ministry.

tenance of a religious organization relates to directing, managing, or promoting the activities of such organization.

(iii) If a minister is performing service in the conduct of religious worship or the ministration of sacerdotal functions, such service is in the exercise of his ministry whether or not it is performed for a religious organization.

(iv) If a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the conduct of religious worship, in the ministration of sacerdotal functions, or in the control, conduct, and maintenance of such organization is in the exercise of his ministry. [An “integral agency” for the Church of the Nazarene would be any of the Liberal Arts Colleges, Bible Colleges, the Seminary, Headquarters, or the Publishing House.]

(v) If a minister, pursuant to an assignment or designation by a religious body constituting his church, performs service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization, all service performed by him, even though such service may not involve the conduct of religious worship or the ministration of sacerdotal functions, is in the exercise of his ministry.



**Remember!** An “integral agency” as described in IRS rules would include the Nazarene

liberal arts colleges, Bible colleges, Seminary, Headquarters, and Publishing House.

### Nazarene Ministerial Classifications

The various classifications by the Church of the Nazarene about which questions are raised are discussed below. These descriptive summaries are not intended to be final, “official” definitions, but are offered simply as general information.

#### *The Local Minister*

*(Local License)*

The *Manual* states that the local minister “is a lay member of the Church of the Nazarene” whom the local church has licensed for ministry under the direction of the pastor (par. 426). The local minister is *not* eligible at this time to administer the sacraments of baptism and the Lord’s Supper, and shall not officiate at marriages (426.7). Therefore, it is not possible to identify the local minister as a ministerial employee for tax purposes.

#### *The Licensed Minister*

*(District License)*

The district-licensed minister is one who has been granted a ministerial license by the district assembly. This conveys greater rights and responsibilities than those pertaining to the locally licensed minister. The district-licensed minister is to have completed at least one year of the course of study. The district-licensed minister who is preparing for ordination as elder is vested with the authority of preaching the gospel, administering the sacraments in his or her own congregation, and officiating at marriages where state law allows. The licensed minister who is preparing for ordination as deacon is vested with the authority of using his or her gifts in various associate ministries, administering the sacraments and, on occasion, conducting worship and preaching (427.7-427.8).

#### *The Deacon*

The deacon is one who has been ordained to that order, has completed the course of study, and has completed a specified period of assigned ministry. The deacon acknowledges a specific call to lifetime ministry, yet does not witness to a specific call to preach (428.1). The deacon has the authority to administer the sacraments and, on occasion, to conduct worship and to preach (428.2).



**Caution!** The minister who has only a local license does not qualify as a minister for tax purposes.

### *The Elder*

The elder is one who has been ordained to that order, has completed the course of study, and has completed a specified period of assigned ministry. The elder is vested with the authority of administering the sacraments, conducting worship, and preaching the Word.

### How the Courts Have Ruled

Court action in 1989 established 5 factors when determining whether one is a minister for tax purposes.

1. Does the individual administer the sacraments?
2. Does the individual conduct worship services?
3. Does the individual perform services in the “control, conduct, or maintenance of a religious organization” under the authority of a church denomination or religious denomination?
4. Is the individual “ordained, commissioned, or licensed?”
5. Is the individual considered a spiritual leader by his or her religious body?

If you meet some but not all of these factors, the IRS may or may not consider you a minister. Under the 1989 tax court case, not all factors had to be satisfied. It should be noted that only factor 4, that one be “licensed, ordained, or commissioned.” needs to be present in *every* case. The more of the remaining criteria that one can meet, the more likely one is to fulfill the definition of “minister of the Gospel.” (However, some more-recent court cases and an IRS Private Letter Ruling have required that all factors be satisfied. Nevertheless, according to leading church law experts, the 1989 case is still viable precedent. The Income Tax Regulations noted previously remain the reliable source for determining ministerial qualification.) Also, the Tax Court *has not* recognized persons as ministers for tax purposes solely on the basis that they were licensed in order to gain tax benefits. In other words, if one seeks a district license or ordination simply to gain tax benefits rather than the rights and privileges associated with it, then the IRS likely would not view that individual as a minister for tax purposes.



**Caution!** No one can qualify as a ministerial employee for tax purposes if he or she is not at least “district-licensed, ordained, or commissioned.”

### How the Rules Are Applied

Generally, there are two “qualifications” for recognition as a minister for tax purposes: (1) a proper credentialing which gives one the *ability to perform* certain services in the exercise of ministry; and (2) the actual performance of services in the exercise of the individual’s ministry.

First of all, the individual must be recognized by the denomination as one authorized to do the work of ministry (preach the Word, conduct worship, administer the sacraments, perform marriages). The IRS and the Tax Courts would understand this to be one duly ordained, licensed, or commissioned. For the individual in the Church of the Nazarene, *this means being licensed at the district level*, since at the local level, the individual is viewed as a lay minister and is not yet authorized to administer the sacraments.

Second, the minister must perform tasks which qualify him or her for tax benefits (conduct worship; preach the Word; administer the sacraments; direct, manage, or promote in order to maintain the religious organization; work in an integral agency of the denomination to control, direct, or manage that institution; or be assigned by the denomination to a specific task).

### Some Examples:

The following brief examples may be helpful as general applications:

Example 1: Abott is ordained and pastors First Church. Abott conducts wor-



**Remember!** A minister, for tax purposes, must have proper credentialing and must actually perform certain ministerial duties.

ship and administers the sacraments. Abott is a minister for tax purposes.

Example 2: Burns is district licensed and pastors First Church. Burns conducts worship and administers the sacraments. Burns is a minister for tax purposes.

Example 3: Clarke is locally licensed and pastors First Church. Clarke conducts worship, yet may not administer the sacraments. Clarke is not a minister for tax purposes.

Example 4: Dunn is district licensed and is an associate pastor at First Church. Dunn occasionally conducts worship and administers the sacraments. Dunn is a minister for tax purposes.

Example 5: Edwards has no credential or license and is an associate pastor at First Church. Edwards occasionally conducts worship. Edwards is not a minister for tax purposes.

Example 6: Franke is ordained and maintains the buildings and grounds at First Church. Franke never conducts worship or administers the sacraments as an employee of First Church. Franke is not a minister for tax purposes for services performed for First Church.

Example 7: Guthrie is district licensed and works for an agency of the denomination in an administrative roll. Guthrie is a minister for tax purposes.

Example 8: Hughes is ordained and teaches at a Nazarene college. Hughes is a minister for tax purposes.

Example 9: Ingland is ordained and retired from full-time ministry. For certain benefits paid to him by his denomination for his service as a minister, he is considered a minister for tax purposes.

Example 10: Jacobs is a registered or commissioned minister of music or song evangelist. Jacobs is not a minister for tax purposes unless he also holds a district minister's license or is ordained as a deacon or elder.