

CHURCH TAX

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APPENDIX

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I. INTRODUCTION TO CHURCH TAX

- A. Few circumstances will get a minister in trouble faster than money -- too much or too little. The purpose of this course is to make the minister aware of the dangers that lurk behind every financial transaction.
- B. Tax exempt does not mean tax free.
- C. Tax exemption is probably the church's key earthly asset.

II. MANDATORY RECORDS

- B. A few records are mandatory under state or federal law.
- C. Financial records protect the church from false accusations.
- D. Corporate organizational documents and minute books should be kept forever.
- E. Real estate and assets transactions should be kept as long as the church owns the asset.
- F. Cancelled checks, bank statements should be kept for at least 6 years.
- G. Donor records are not mandatory.
- H. Members can see some records for a reasonable purpose at a reasonable time.

III. FEDERAL TAX EXEMPTION

- A. Internal Revenue Code Section 501(c)(3) provides an income tax exemption for churches. There are six conditions that must be met to qualify.
 - 1. The church is a corporation. (However, IRS has said that unincorporated churches would be considered for exemption, See Exempt Organizations Handbook by IRS).
 - 2. The church is organized for exempt purposes (religious, educational, and charitable activities.) The purpose must be stated in the constitution or articles of incorporation of the church.
 - 3. The church is operated exclusively for exempt purposes. (The church adheres to its purposes.)
 - 4. No inurement of net earnings to private individuals may occur. It appears that percentage compensation plans may revoke the tax exempt status. (The

Founding Church of Scientology v. United States, 412 F.2d 1197 (Ct.Cl.1967).
cert. denied, 397 U.S. 1009 (1970) Compensation must reflect the value of the
services performed for the organization.

5. The church cannot engage in significant lobbying to influence legislation.
6. The church itself may not participate in political campaigns; however, it may sponsor non-partisan activities. Political activities are defined as anything that helps or hinders a candidate's race.
7. Apparently, IRS has created a seventh standard, adequate recordkeeping.

B. Indicia of a "Church" - per IRS

1. a distinct legal existence
2. a recognized creed and form of worship
3. a definite and distinct ecclesiastical government
4. a formal code of doctrine and discipline
5. a distinct religious history
6. a membership not associated with any other church or denomination
7. a complete organization of ordained ministers ministering to their congregations
8. ordaining ministers after they complete prescribed courses of study
9. a literature of its own
10. established places of worship
11. regular congregations
12. regular religious services
13. schools for religious instruction of the children
14. schools for the instruction of its ministers

C. Other rules

1. Public disclosure - If the church files a Form 1023 or Form 990, it must make those available for public inspection at church offices – The IRS may impose a fine up to a maximum of \$5,000 for the failure to do so.
2. If the church solicits funds that are not tax deductible, a "conspicuous and easily recognizable" statement must be printed on all receipts stating that those funds are not tax deductible. Failure to include the statement results in a \$1,000 daily fine, \$10,000 maximum; if the failure to include the statement is willful, no maximum exists. This applies only to churches with annual budgets exceeding \$100,000.00.
3. If the church spends any money on political activities, an excise tax of 10% of the expenditure is assessed (100% if it failed to report it as political activity on Form 990.)

plus: a 2 1/2% penalty is imposed on the manager (i.e., pastor or Board) who allowed the activity (50% if they do not take corrective measures). If the church can get the money back from the politician, then the penalty may be abated.

4. Lobbying Expenditures - This penalty only applies to church auxiliaries. If its tax exempt status is revoked because of lobbying activities, a 5% excise tax is imposed on the church plus a 5% excise tax is imposed on the manager.
5. Fees are imposed on filing a Form 1023.

D. To Gain IRS Recognition of Exemption

1. To affiliate with an approval organization (such as the United Methodist Church) within fifteen months of organization.
2. File Form 1023 with IRS within fifteen months of organization.
3. Donors must be able to prove the tax exempt status of recipients of their contributions.

E. Tax on Unrelated Business Income.

DEF: I.R.C. Section 513 - "Any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption" under Section 501 . . ."

1. Requirements to be taxable:
 - a. Must be trade or business
 - b. Regularly carried on.
 - c. Not substantially related to exempt purposes.
2. Exceptions to taxable income:
 - a. Work substantially performed by unpaid volunteers.
 - b. Primarily for convenience of members, students, or employees.
 - c. Selling merchandise that was donated.
3. Debt-financed income.

- a. Income from property whose use is unrelated to the church's exempt purposes and is burdened with debt.

Examples: House bought for future growth that is rented out.
Shopping center that is rented out on a new church site.

- b. Unrelated taxable income

$$(a/b) \times c - d = e$$

a = Debt on Property
b = Total Basis in the Property
c = Business Income
d = Deductions
e = Taxable Income

- 4. If gross unrelated business income is greater than \$1,000, the church must file by May 15 of the following year Form 990-T and file estimated taxes quarterly. See also Form 990W. The person responsible (i.e., pastor) can be fined \$10. per day, maximum \$5,000 for late filing.
- 5. Unrelated business income will not affect tax exempt status if it is a minor part of the church's income.

F. IRS Audits of Churches

- 1. Audit must be approved by the Regional Commissioner of IRS and he must have written evidence of wrongdoing by the church.
- 2. IRS must furnish the church the reason for the inquiry.
- 3. Within 15 days, Regional Counsel of IRS is notified of the potential audit and may file advisory objections to the audit.
- 4. IRS must be available to meet with church officials prior to beginning the audit to discuss the reasons for the audit.
- 5. IRS must make a determination within 2 years after notice of examination.
- 6. Other rules establish guidelines to see that the rules are being followed.
- 7. Routine payroll inquiries are exempted from these rules.

G. Property taxes - Varies From State to State

1. Property is exempt that is "used substantially" for religious purposes.
2. Parsonage must be specifically exempted by taxing authority.

H. Sales Taxes - Most states do not exempt churches from the collection of sales tax on goods that are sold. Some states exempt purchases by a church from the use tax.

I. Private School

1. Does not have to incorporate separately.
2. Proof of nondiscrimination.
 - a. Revenue Procedure 75-50
 1. Include statement in charter, by-laws, or resolution that it has a racially nondiscriminatory policy toward student.
 2. Include in all advertising, brochures, and catalogs a statement of its racially nondiscriminatory policy towards students.
 3. Make its racially nondiscriminatory policy known to all segments of the general community that it serves. The school must at least annually publish a notice of its racially nondiscriminatory policy in a newspaper of general circulation serving all racial segments of the community. The procedure even specifies twelve point type and text is eight point type in at least a three column inch ad.
 4. There are exceptions to the rules but it is easier to comply than to try to claim an exception.
 5. If the school does not file Form 990, then it must file Form 5578 annually with IRS to show that this policy is being followed. If this procedure is not followed the school can lose its tax exempt status. If the school is not separately incorporated, the church can lose its exempt status also.

IV. CHURCH EMPLOYEES

A. Ministerial Employees - Compensation Package

1. Salary
2. Expenses

3. Benefits
 4. Housing Allowance
- B. Non Ministerial
1. Salary
 2. Expenses
 3. Benefits
- C. Workman's Compensation - Required of all churches where it is mandatory.
- D. Social Security
1. Churches must pay Social Security on all nonministerial employees, unless it has filed an exemption.
 2. Churches in existence before October 1, 1984 must have filed Form 8274 by October 31, 1984. Newly organized churches must file by the due date of their first quarterly payroll tax report (Form 941) to elect out of Social Security.
 3. If the church fails to keep adequate records and file W-2's and 941's for 2 years, then IRS can revoke election to be exempt from Social Security.
 4. If the church files Form 8274, then the employees will be liable for self employment taxes without deductions for any expenses.
 5. The failure to timely file the election will forever cause the church to pay Social Security for its nonministerial employees.
 6. A church can elect back into Social Security after filing Form 8274 by filing a new IRS Form 941.
- E. Payroll Taxes - Exempt from FUTA and most state unemployment unless the church elects to pay such tax.
1. Wage and Hour Summary
 2. Form 941
 - a. L.2 includes all salaries
 - b. L.6 includes all non ministerial salaries

- c. Housing allowance and other payments are not included on this form.
3. Form W-2 - Required For All Employees
4. Housing Allowance - May be reported in Remarks Section of W-2 and marked as such.
5. Withholding
 - a. Ordained Ministerial Employees - optional with employee.
 - b. Nonministerial Employees - Mandatory
6. Contract labor defined as payment by the church for services to individuals. Examples: outside janitor service, repair services, attorney, missionaries.
 - a. If payments are over \$600.00 in a calendar year, Form 1099 - Misc. is required.
 - b. If the individual does not furnish a Social Security number or Federal ID number, the church must withhold 20% of all checks until it is furnished. (Form W-9 is used).
 - c. The church will be liable for the 28% withholding whether they withhold it or not.
 - d. Penalties - \$500.00 for each willful failure to furnish a Form 1099-Misc.
 - e. Form 1099 must be issued for all payments to attorneys.
7. Form W-2 is summarized and mailed with Form W-3 to Social Security.
8. Form 1099-MISC is summarized and mailed with Form 1096 to the IRS.
9. Form 941 is due at the end of the month following the end of the quarter.
10. See Circular E for payment dates.
11. Forms W-2 and 1099-MISC must be mailed or delivered to the recipient by January 31.
12. Forms W-3 and 1099-MISC must be mailed by February 28.

V. Qualified Expense Reimbursement Plan

Beginning in 1989, the Internal Revenue Code requires that all employee expense reimbursement plans meet certain criteria. If a reimbursement plan does not meet the stated criteria, as explained below, the employee must count the reimbursements as income, the employer must include them on the W-2, and the employee can only deduct the expenses on Form 2106, subject to the 2% of adjusted gross income floor. These criteria allowing for the exclusion of the reimbursement are commonly referred to as the elements of an "adequate accounting system" or a "qualified reimbursement plan."

- A. The plan should be in writing and regularly distributed to employees. The plan should specify the expenses that are eligible for reimbursement and any limits that are placed on reimbursements.
- B. The plan requires the employees to "adequately account" for all travel and entertainment expenses.
- C. The plan requires the employee to return any unexpended advances to the employer within a stipulated time.
- D. It does not matter whether the employer reimbursement takes the form of a per diem, car plan, or other fixed allowance. However, if the per diem or other fixed amount is related to the number of days away from home and the amount does not exceed "IRS specified rates," then the elements of adequate accounting are met.

VI. All Travel and Entertainment Expenses Must Include an Adequate Accounting (Section 274(d))

- A. Time - the date on which the expenditure took place.
- B. Place - where the expenditure took place.
- C. Purpose - what business connection was served by the expenditure or advance.
- D. Amount - the amount of the expenditure that is qualified for reimbursement under the employer's policies.
- E. Business Connection - means that there is a relationship between an amount called an advance, and the business expenses that are anticipated. For example, if an employee received an advance of \$2,000, but has no plans to travel or otherwise incur deductible business expenses, then the advance does not meet the business connection requirement and will not be treated as paid under a plan.

- F. Substantiation - means that the substantiation rules of the Internal Revenue Code Section 274(d) must be fulfilled by the qualified reimbursement plan. Generally, the reimbursement plan must require substantiation of the amount, time, place, and business purpose of the expense. Many times a receipt is sufficient, but at other times, much more information is needed than is normally found on receipts. If the expenditure is less than \$75.00, then a written statement signed by the employee that contains all of the elements of substantiation will be sufficient.
- G. Per Diem Allowances - means where an employer reimburses a flat rate for each day of travel. The Internal Revenue Service has set maximum per diem allowances for lodging and meals in each area in the country. A per diem reimbursement may relate to meals only or it can relate to both meals and lodging. Even in a per diem allowance system, the elements of time, place and business purpose must be properly substantiated.
- H. Return of Excess Funds - means that there is a binding contractual arrangement between the employer and employee related to advances. The employee must be obligated under the contract to return the unexpended funds within at least 120 days of his receipt of the advance.
- I. Suggested Solution
1. Establish a written reimbursement policy (including maximum amounts if the employer chooses).
 2. Create an employee accounts receivable account. Charge all cash advances to this account. Deduct from the receivable when an employee turns in the proper substantiation.
 3. At least every 90 days, require the employee to pay off the receivable.
 4. Notify the employee who still has an open balance, that the amount in the account will be treated as salary if substantiation is not timely received.
- J. Auto Expense
1. An employer may reimburse up to 48.5 cents per mile for business-related travel by an employee. If the mileage method is used by the employer as a basis for reimbursement, any reimbursement rate in excess of 48.5 cents per mile will be considered salary.
 2. A business trip is defined as a trip the purpose of which is to conduct business.
 3. Commuting is not deductible. However, it appears that the cost of driving from the employee's residence to a temporary work station (other than his

regular place of business) is a qualified business trip. Rev. Rul. 90-23.

4. Revenue Procedure 90-34 sets up an alternative to the mileage rate, called the fixed and variable rate allowance ("FAVR"). This allows for periodic fixed payments to the employee for the amount of depreciation in insurance and other fixed annual costs of operating the vehicle. The percentage reimbursed would still be dependent on the actual percentage of business use by the employee.
5. The employer may also pay a periodic variable payment. This payment is the amount of gasoline, oil, tires and repairs which the employee incurs. Again, the percentage reimbursed is based upon the actual business use percentage of the employee.
6. This system cannot be used if the employee's automobile purchase price is more than \$22,500.00.
7. One requirement of this plan is that there must be at least ten employees covered by the plan.
8. The plan also must be in writing.

VII. TAX DEDUCTIBLE CONTRIBUTIONS

- A. Who can deduct
 1. Individuals
 2. Partners
 3. Corporations
- B. When it can be deducted
 1. In the year it is paid to the church
 2. In general, one pays it to the church when you unconditionally mail or deliver it to the church or its agent.
- C. What can be contributed
 1. Cash
 2. Insurance policies
 3. Stocks and bonds

4. Personal property
5. Real Estate
6. Virtually any asset
7. Unreimbursed expenses for performing services for church, contributors may deduct 14 cents per mile for church business travel by auto.
8. Travel expenses are allowed only if there is no element of personal pleasure.

D. Designated Gifts

1. If donor designates the gift for the benefit of an individual then it will not qualify.
2. If church designates an offering for a specific purpose, then it is deductible to the donor.
3. The key is that the church must maintain control and responsibility for the funds.

E. How much can be deducted.

1. Actual amount of cash
2. The Fair Market Value (FMV) of the asset
 - a. Used property in useable condition - garage sale values
 - b. New property - cost
 - c. Appreciated property (i.e., real estate, etc.)
 1. If held less than one year or held less than six months and acquired after 6/22/84, the amount of the deduction is the FMV less amount that would have been income (in general, for inventory that is the "basis" for corporations if it can be used by church; basis plus 1/2 appreciation).
 2. If the item is held longer than one year or held longer than six months if acquired after 6/22/84, and will be used in charitable activity, then the amount of the FMV is deductible. If not, the amount deductible is the FMV less 40% of the profits assuming it has been sold.

3. The excess of FMV over cost will be a tax preference item.

F. Bargain Sales to Charity
(part contribution - part sale)

1. Cost Basis is allocated based on the FMV of the asset being sold.
2. Very useful in bargaining for real estate acquisitions.

G. Limits

1. In general, individuals may deduct contributions to churches up to 50% of their adjusted gross income.
2. For individuals contributing capital gain property, the limit is 30% of their adjusted gross income and this limit applies only when the 40% reduction from FMV is not used.
3. For corporations, 10% of adjusted net income.
4. Amounts above limits can be carried forward for 5 years.
5. Other limits exist for contributions to some other types of charitable organizations. See IRS Publication 17.

H. Proofs

1. The annual statement from the church for cash contributions received by the church during the year, with disclaimer: "No goods or services were provided in exchange for this gift except for general intangible religious benefits." Receipt will be required for all cash gifts after January 1, 2007.
2. The church can issue a letter of acknowledgment of non-cash contribution. It should include: description of item and condition and whether the church intends on using the gift or disposing of it. Noncash gifts do not include "junk."
3. The church should avoid self appraisals!
4. The church should not issue receipts for volunteer labor.
5. IRS required paperwork.
 - a. Contributions must be professionally appraised if the non-cash contribution is valued in excess of \$5,000 (\$10,000 in case of stocks).

- b. Church must report to the IRS and the donor if it sells the item (over \$5,000 donation) within two years. The church should report to IRS the donor's name, social security number or Federal ID number, date of contribution, description of property, amount received on disposition and date disposed. Penalty - \$50 each for failure to furnish to IRS or donor, maximum \$50,000. The church should report to the donor a description of property, amount received in disposition and date disposed. At the time of the gift, Form 8283 must be filed and signed by an officer of the church, if the FMV of the gift is over \$5,000. When the gift is sold within the two years, Form 8282 must be filed and signed by an officer of the church.
- c. Overvaluations by more than 50% will cause penalties to the donor.
- d. Special vehicle donation rules: Within 30 days of receiving the donation, the church must file Form 1098-C with the IRS and donor the sales price.

MINISTERIAL INCOME TAX

- I. Minister - Employee or Self-Employed**
- II. To Pay or Not to Pay - Social Security**
- III. Housing Allowance - Section 107**
- IV. Gifts vs. Income**
- V. Ministerial Expenses**
- VI. Tax Free Benefits Available to Employees of Churches**
- VII. Retirement Plans**
- VIII. Intermediate Sanctions**

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I. MINISTER - EMPLOYEE OR SELF-EMPLOYED

A. For Income Tax Purposes:

Treasury Regulation Section 31.3401(c) - 1(b):

Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed, it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods of accomplishing the result, he is not an employee.

B. For withholding - A duly ordained or licensed minister has option whether church will withhold income tax or not. I.R.C. Section 3401(a)(9).

C. For Social Security - Exempt from withholding Social Security by the church, (Although a minister may choose to increase his voluntary withholding to cover his self-employment tax.)

D. For Pension Plans

1. Profit Sharing

2. Tax Sheltered Annuity

E. Income other than from church is self-employed income.

II. TO PAY OR NOT TO PAY - SOCIAL SECURITY

A. Advantages of Staying In

1. Disability Benefits

2. Survivors Benefits

3. Retirement Benefits

B. Disadvantages of Staying In

1. Annual Escalating Costs
2. May Never Use Benefits

C. Criteria - For ordained or licensed ministers

1. Form 4361 must be filed before the due date of second year's tax return that includes \$400.00 or more net income from the ministry. The first ministerial credential that qualifies is used.
2. Form includes this statement: The applicant is conscientiously, or because of religious principles, opposed to accepting this type of public insurance. Any other reason is not acceptable. The minister must also notify his ordaining body that he is conscientiously opposed to Social Security on religious grounds. The IRS will then verify the motives for the exemption. See Treasury Reg. § 1.1402(e)-5A (1988).
3. The Social Security exemption is for ministerial income only.

D. Amount of Income that is taxed for Social Security

1. Salary and other designated payments (such as payments for Social Security)
2. Plus Honorariums
3. Less all Business Expenses
4. Plus Housing Allowance

III. HOUSING ALLOWANCE - SECTION 107

A. Qualifying

1. Must be "Minister of the Gospel" duly ordained or licensed with full ecclesiastical duties. No special licenses recognized.
2. Must be performing "services which are ordinarily the duties of a Minister."

B. Procedure

1. The amount must be designated by the congregation before the allowance is paid.
 - a. By Board resolution of the local congregation for each staff member.
 - b. By other governing body at the "local" level.
 - c. If an evangelist does not have an evangelistic association, he must have an individual designation from each congregation.

2. Any amount can be designated by the resolution except for an amount paid as his "ordinary" salary.

C. Housing Expense Checklist

1. Rent of home or apartment
2. Down payment, mortgage payment and related expenditures
3. Mortgage interest, taxes, and special assessments
4. Utilities
5. Garbage removal
6. Repairs and maintenance
7. Home insurance
8. Home furnishings
9. Home improvements

D. Expenses Not Allowed

1. Food
2. Clothing
3. Servants

E. Maximum Allowable Housing Allowance Exclusion, The Lower of:

1. Fair rental value of the home, including furnishings and appurtenances, plus public utilities; or
2. The actual amount spent to provide a home; or
3. Amount designated by the employer.

F. Where Parsonage is furnished to the Ministers:

1. The church must determine fair rental value on the house.
2. The church may report in the remarks section on the W-2 to the minister the amount of the fair rental value plus utilities of the parsonage furnished, plus any maintenance or other designated housing allowance.
3. The minister who is not exempt from Social Security will include the amount on Schedule SE, and pay Social Security taxes on it.

G. Recordkeeping

1. Keep receipts and canceled checks of all expenditures.
2. If using fair rental value, letter(s) from independent realtor and furniture companies help establish rental values.

IV. GIFTS VS. INCOME

A. Gifts are not taxable income if:

1. It comes from a detached or disinterested generosity that arises solely

- from a personal and non-church relationship.
- 2. It is not encouraged or solicited by the church or the minister in any way.
- 3. It is not going to be deducted by the donor as a charitable gift.

B. Income

- 1. Almost anything received by the minister from the church will be taxable.
- 2. Payments by parishioners for special services or special attention to the minister will be taxable; i.e., weddings, funerals, etc.
- 3. In one case, the gift was taxable despite the fact the parishioner received no special attention or services.

V. **MINISTERIAL EXPENSES**

Expenses are deductible only on Schedule C (if self-employed) or as an itemized deduction and then only if they are required in writing by the employer; the deduction is further reduced by 2% or AGI.

A. Dalan formula - mandatory

- 1. For ministers that report income and expenses on Schedule C

$$\frac{\text{Taxable income (salary plus other taxable perks)}}{\text{Total ministry income (including housing allowance)}}$$

$$\times \text{total expenses} = \text{allowable expenses on Sch. C}$$

- 2. For ministers that report income on Form W-2
 - a. Applies only to unreimbursed expenses.
 - b. Use formula above to arrive at the deductible expenses on Form 2106.

VI. **TAX FREE BENEFITS AVAILABLE TO EMPLOYEES OF CHURCHES**

- A. Group term life insurance purchased by employer for employees, to the extent of \$50,000 in coverage, is not taxable to employee.
- B. The cost of group health and accident insurance paid for by employer is not taxable.
- C. Group Medical - Dental reimbursement plan can be set up by the church for its employees. All amounts paid by the plan for Medical/Dental expenses are not taxable to the employee. All employees must be included in the plan.

- D. Group legal benefit plan provides for legal expenses for employees. The amounts disbursed are not taxable to the employees.
- E. Child care programs - either on site or off site.
- F. Free, or discounted tuition, to a church-owned and operated school if the employee works at the school.
- G. Temporary, small, short term interest-free loans.
- H. Cafeteria plans - Section 125, many of the benefits can be placed together into one comprehensive benefit package. Each employee chooses only those most desired.
- I. Review all plans with a lawyer and/or CPA. They all have technical requirements the church must live up to.

VII. RETIREMENT PLANS

- A. Pension Plan - TRA 97 allows tax exempt organizations to establish qualified profit sharing plan under Section 401. Starting in 2002, contributions up to 100% of salary (for all qualified employees) per year.
- B. Tax Sheltered Annuity (Section 403(b)).
 - 1. Up to 100% of salary. Maximum \$15,000 employee contribution for 2006.
 - 2. May use salary reduction agreement. It must also allow any employee to use salary reduction.
 - 3. May elect special catch-up provision to greatly increase contribution.
- C. Keogh - For Self-Employed Income
 - 1. Up to 100% of net income, up to \$44,000 per year.
 - 2. Must be done by minister and only for Schedule C income.
- D. IRA - Up to \$4,000 or \$5,000 (if over 50 years of age) per year. May be at pastor's option instead of any of the above, provided his income is low enough.

IX. Intermediate Sanctions

- A. Intermediate Sanctions. If the clergy is paid more than a reasonable amount of compensation, then the clergy may be required to pay excise taxes.

- B. Excess benefit transactions is any taxable benefit not the reported on the W-2 and any payments in excess of the reasonable amount for the transaction.
- C. Tax is 25% of the excess benefit transaction.
- D. If the excess benefit transaction is not repaid to the organization within the tax year, then a second excise is imposed at 200%.