

Federal Tax Issues

I. Federal Taxation of Ministers

A. Introduction

This broad subject covers a wide variety of topics that can be grouped into **two main categories: self-employment taxation** (i.e., Social Security) and **income taxation**. It is vital to remember that these taxes and the rules and regulations under which they are administered are **separate**. Definitions used for income tax purposes are not the same as the definitions used for self-employment tax purposes.

However, the rules discussed in this section pertain to ministers as defined by the Internal Revenue Code ("Code"), and this definition **is** the same for both self-employment and income taxation purposes. A "minister" is one who:

1. administers sacraments,
2. conducts religious worship,
3. has management responsibility in a local church or religious denomination,
4. is ordained, commissioned, or licensed, and
5. is considered to be a religious leader by his or her church or denomination.

The Tax Court, in 1989, ruled that only the fourth factor is required and that a balancing test should be applied with respect to the other factors. *Knight v. Commissioner*, 92 T.C. 199. In addition, if a church or denomination ordains some ministers and licenses or commissions others, anyone licensed or commissioned must be able to perform substantially all of the religious functions of an ordained minister to be treated as discussed in the remainder of this section. This statement begs a discussion of whether the Presbyterian Church (U.S.A.)'s Commissioned Ruling Elders ("CREs"), also soon to be known as commissioned pastors pursuant to a *Book of Order* amendment which will go into effect this summer, are "ministers" as defined by the Code and, therefore, qualify for the special tax treatment outlined by the Code.

In December 1998, the United Methodist Church secured a Private Letter Ruling ("Methodist Private Letter Ruling") from the Internal Revenue Service ("IRS") pertaining to its ordained deacons. In it, the IRS concludes the three deacons discussed are "ministers" as defined by the Code and applicable case law.

A private letter ruling only applies to the taxpayers who requested it. However, it is common for taxpayers and their tax advisers to rely on private letter rulings because they are a good indicator of how the IRS would respond in an audit or tax proceeding with regard to a particular question presented. If you need a copy of the Methodist Private Letter Ruling, please contact Kathie Lyvers, Legal Office Administrator, Office of Legal Services. Her number is 1-888-728-7228 ext. 5020. Her email address is kathie.lyvers@pcusa.org.

What does this Private Letter Ruling mean for CREs? As outlined in Presbyterian Church (U.S.A.) Polity Reflections Note #24, written by the Office of the General Assembly's Office of Constitutional Services, it appears that CREs who perform substantially all of the duties allowed pursuant to the *Book of Order* are similarly situated to the three Methodist deacons discussed in the Methodist Private Letter Ruling because they are (1) commissioned and (2) perform similar functions as that of a Methodist deacon. **Therefore, it appears that CREs performing services such as those outlined in the Methodist Private Letter Ruling and Note #24 would be defined as "ministers" pursuant to the Code and should be treated the same as Ministers of the Word and Sacrament are for federal tax purposes.** As used in the remainder of this outline, the term "minister" refers to those who meet the Code's definition of a minister.

B. Self-Employment Tax

i. Ministers Deemed Self-Employed for Self-Employment Tax Purposes

For self-employment (i.e., Social Security) tax purposes, all ministers are defined by statute as self-employed. (Internal Revenue Code §§ 1402(c), 3121(b)(8)). The self-employment tax is a funding mechanism for the Social Security system, analogous in part to employer and employee Social Security (FICA) tax payments. The self-employment rate and the combined employer-employee (FICA) rate are the same — 15.3 percent of income.

ii. Coverage of Ministers by Social Security

Prior to 1968, Social Security coverage for ministers, which is funded by the self-employment tax, was elective. If coverage were not elected, Social Security coverage was not provided. **However, for all years since 1967, clergy are automatically covered under Social Security unless they receive an exemption from the IRS.** IRS Form 4361 must be filed by those seeking the exemption. Form 4361 includes a statement that the applicant is either conscientiously opposed, or opposed because of religious principles, to acceptance of any public insurance, including Social Security benefits, based on her services as a minister. In order to seek the exemption, persons in ministry prior to 1968 and newly ordained ministers since 1968 have until the due date for their second tax return that included more than \$400 of net earnings from self-employment, some of which were from the ministry, to file Form 4361.

In view of the 198th General Assembly's (1986) approval of a *Pastoral Letter to Candidates Regarding Social Security*, which strongly supports participation in the Social Security program, it will be difficult for Presbyterian Church (U.S.A.) ministers to meet these requirements in order to secure the exemption. They must rely solely on personal grounds of conscience when applying for exemption. **The Legal Office does not recommend seeking exemption from Social Security.** Loss of access to Social Security disability payments (and other death benefits), the increased cost of Medicare participation if one must buy one's way back into Medicare, and the fact that Board of

Pensions' benefits plans within the denomination assume receipt of Social Security benefits as part of one's retirement package suggest that the long-term financial risks of nonparticipation in Social Security are significant. Opting out of Social Security can also create a hardship on a surviving spouse when the minister dies.

Those seeking to be excluded from Social Security must file Form 4361 as soon as possible (within two years) after beginning work as a minister and should never discard the original filing or any Internal Revenue Service responses. There can be serious problems if these documents are unavailable in the future. A detailed explanation of the exemption process is set forth in Richard Hammar's *Church & Clergy Tax Guide* ("Tax Guide"). Again, the Legal Office does not recommend seeking exemption from Social Security.

C. Federal Income Tax

i. Status of Ministers (Employee vs. Independent Contractor)

While ministers are **always** deemed to be self-employed for Social Security tax purposes, they may or may not be employees for income tax purposes. An evaluation of the minister's position must be conducted to determine whether she is an employee. This outline presents three separate views on this subject.

- a. In his Tax Guide, Richard Hammar advises that "most ministers should report their federal income taxes as employees, since
 1. the value of various fringe benefits will be non-taxable,
 2. audit risk is much lower,
 3. reporting as an employee avoids the additional taxes and penalties that are often assessed against ministers who are reclassified as employees by the IRS,
 4. the IRS considers most ministers to be employees, and
 5. most ministers are employees under the tests applied by the IRS and the courts." (Tax Guide, 2017 edition, p. 71)
- b. In 1995, the 4th Circuit Court of Appeals issued *Weber v. Commissioner*, 60 F.3d 1104. That case addressed the issue of whether United Methodist clergy at the local church could file as self-employed for income tax purposes and use Schedule C and determined such clergy are employees for income tax purposes and may not use Schedule C. While this opinion did not involve a Presbyterian minister, it provides helpful information regarding the issues the court found to be important in making a decision regarding ministers and employee versus independent contractor status for income tax purposes. The *Weber* court found the seven following points significant in determining Weber an employee:

1. the degree of control exercised over the details of the work by the "employer,"
2. which party invested in the facilities used in the work,
3. the opportunity of the "employee" for profit or loss,
4. whether the "employee" could be discharged by the "employer,"
5. whether the work was part of the "employer's" regular business,
6. the permanency of the relationship between the parties, and
7. the relationship the parties believed they were creating.

Presbyterian ministers in local churches may wish to compare their employment situation to Weber's employment situation.

- c. Finally, the Office of Constitutional Services has issued Note 69 (September 9, 1992) in its *Polity Weekly* series which discusses the issue of who is the employer of a Presbyterian minister in a local church setting. In it, they determine the session is the employer of the minister.

ii. Housing or Manse Allowance

There has been much activity in the federal courts and Congress surrounding manse allowances in the last fifteen years. An overview of the activity will first be given after which the law as it currently stands will be outlined.

Prior to 2002, section 107 of the Code stated:

In the case of a minister of the gospel, gross income does not include —
(1) the rental value of a home furnished to him as part of his compensation
or (2) the rental allowance paid to him as a part of his compensation, to the extent used by him to rent or provide a home.

In 1971, the IRS issued Revenue Ruling 71-280 which held that the manse allowance of ministers who owned their homes could not exceed the fair rental value of the furnished home plus utilities. The result of this Revenue Ruling was to limit the manse allowance to the lesser of the following three amounts: (1) the amount designated in advance by the minister's employer, (2) the actual cost of providing a home, or (3) the fair rental value of the furnished home plus utilities. Many tax professionals and ministers understood the Revenue Ruling to be an interpretation of what Congress meant in enacting section 107 of the Code, and a large group of ministers, therefore, filed their taxes in accordance with this understanding and further limited the amount excluded from income by the fair rental value of their furnished home plus utilities.

However, a minister named Rick Warren adopted a more aggressive position regarding the amount allowable as housing allowance by asserting that the revenue ruling's further limitation on the allowable manse allowance did not apply. He, therefore, excluded from his income the lesser of the designated amount or the amount actually spent providing a home. The Internal Revenue Service audited the Rev. Warren's returns and challenged the

amount he claimed as manse allowance. The Tax Court sided with Warren stating that the annual "fair rental value" test the IRS adopted in 1971 was not a valid limitation on manse allowances. *Warren v. Commissioner*, 114 T. C. 23 (2000). The Internal Revenue Service appealed this decision to the Ninth Circuit Court of Appeals in California. The Ninth Circuit then did something no other court has done in a manse allowance case. In a decision of a three-judge panel, it issued an order which, in part, asked a third-party, a law professor, to provide a brief outlining whether the manse allowance provided in the Code is constitutional, signaling that the court had determined the manse allowance might be unconstitutional.

Congress responded quickly to this threat to the manse allowance by enacting the Clergy Housing Allowance Clarification Act of 2002. The effect of this act was to codify the further limitation of the manse allowance to include the fair market rental value of the furnished home including utilities. Therefore, section 107 of the Code currently states:

In the case of a minister of the gospel, gross income does not include — (1) the rental value of a home furnished to him as part of his compensation; or (2) the rental allowance paid to him as a part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities.

The fair rental value is defined in Revenue Ruling 71-280 as the amount of rent that an unrelated party would pay for the home, including furnishings and related structures, such as garages, plus utility costs.

Several challenges to the housing allowance exemption have been before the federal courts. The current case, *Gaylor v. Lew*, is before the Western District of Wisconsin. It appears this case has survived the jurisdictional challenges which have caused previous challenges to be dismissed. However, a consideration of this case on the merits has not yet been heard by the court.

Housing or Manse Allowance Mechanics

- i. **Who designates housing allowance?** Pursuant to 26 CFR 1.107-1(b), the “employing church or other qualified organization” designates housing allowance.
- ii. **How is a housing allowance designated?** Pursuant to 26 CFR 1.107-1(b), a housing allowance is designated “pursuant to an official action taken in advance of such payment.” “The designation of an amount as [housing] allowance may be evidenced in an employment contract, in minutes of or in a resolution by a church or other qualified organization or in its budget, or in any other appropriate instrument evidencing such official action.”
- iii. **When must a housing allowance be designated?** A housing allowance must be designated “in advance.” See above quotation.

- iv. **Must a housing allowance designation be in writing?** While having the designation reduced to writing is helpful in proving that such a designation was made, an oral designation may be sufficient pursuant to *Libman v. Comm'r*, 44 T.C.M. 30 (1982) which stated “there is no requirement that the designation be in writing.”
- v. **Is there a limit on how much of a minister’s compensation for performing services in the exercise of ministry can be designated as housing allowance?** So long as the amount claimed by the minister is the lesser of the amount designated, the amount actually spent to provide a home, or the fair rental value of the furnished home with appurtenances plus utilities, there is no limit on the amount of a minister’s compensation which may be designated as housing allowance. See *Holmes v. Comm'r*, T.C. Summary Opinion 2010-42 (2010) where 95% was designated and the *Warren* decision discussed above where, in some years, 100% was designated. Of course, the minister’s compensation must be reasonable in amount. (IRC 501(c)(3))
- vi. **Is a minister who lives in a parsonage and who pays none of the expenses for maintaining a parsonage eligible for a housing allowance?** No, pursuant to *Heritage Village Church and Missionary Fellowship, Inc.*, 92 B.R. 1000 (D.S.C. 1988)
- vii. **Is housing allowance limited to one (1) home?** Yes, pursuant to *Comm'r v. Driscoll*, 669 F.3d 1309 (11th Cir. 2012)

II. The Presbyterian Church (U.S.A.) Group Federal Tax Exemption

A. Group Exemption

The initial Group Ruling was granted to a predecessor denomination of the Presbyterian Church (U.S.A.) on January 31, 1964 by the IRS, and the IRS has reaffirmed the Group Ruling periodically with respect to the Presbyterian Church (U.S.A.) and its related entities. The related entities entitled to the use of the Group Ruling include synods, presbyteries, local congregations, and their unincorporated affiliates. The Legal Office, in conjunction with the Office of the General Assembly, submits to the IRS an annual filing of all covered organizations within the Group Ruling. **If your church or mid council needs a personalized letter certifying its status as a covered entity within the Group Ruling, it can be obtained by calling Kathie Lyvers, Legal Office Administrator, Office of Legal Services. Her number is 1-888-728-7228 ext. 5020. Her email address is kathie.lyvers@pcusa.org.** Normally, such letters are requested as evidence of

- federal tax-exempt status by state revenue departments (in assessing applications for state income and sales tax exemptions),
- U.S. Postal Service (in relating to application for third-class bulk mailing permits),

- grant-making foundations or attorneys for estates (in order to be sure that the grant or bequest is going to a federally tax-exempt entity), or
- real estate taxing jurisdictions (to help determine the taxable status of church-owned real property).

The Group Ruling issued by the IRS has two important benefits for the Presbyterian Church (U.S.A.). First, all churches, mid councils, the General Assembly, and included related entities are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and from federal unemployment tax (FUTA). Second, contributions to such organizations are deductible for federal income, gift, and estate tax. Please note, however, that states may impose an unemployment tax. The Group Ruling does not control excise taxes or state or local income, sales, or property taxes. Additionally, all entities in the Group Ruling must pay taxes under the Federal Insurance Contributions Act (FICA) for each lay employee unless such entities have obtained an exemption. **Also, the Group Ruling exempts churches, mid councils, and the General Assembly from the Form 990 filing requirement imposed upon other nonprofits** (unless unrelated business income on which tax is due has been earned during the year, in which case Form 990-T must be filed). Please remember, however, that the Group Ruling does not in and of itself establish exemption from state and local taxes. The relevant state statutes should be reviewed to determine the information and filing requirements at the state (income and sales taxes) and local (sales and real property taxes) levels. As stated above, the Legal Office, in conjunction with the Office of the General Assembly, annually submits a report to the IRS listing all covered groups. Thus, **a covered entity is not required to file any type of report with the IRS concerning its tax-exempt status.**

The following is a list of those understood to be automatically included in the Presbyterian Church (U.S.A.) Group Ruling. These groups need not take any additional action to be included within the denomination's Group Ruling:

- The particular churches, congregations, sessions,
- The presbyteries,
- The synods,
- The General Assembly,
- The first or primary corporation of any of the above (e.g., First Presbyterian Church, Inc.), and
- The unincorporated programs or functions of any of the above.

Other incorporated bodies are not automatically included. Examples are:

- The second, third, and fourth corporations created by councils. Typically, these are camp/conference center corporations, campus ministry corporations, or incorporated daycare centers.

These organizations desiring inclusion in the Group Ruling that are separately incorporated, but controlled related entities of a synod, presbytery, or local church must apply with the Office of Legal Services and follow certain guidelines as developed by the Office of the General Assembly

and the Office of Legal Services. The major criteria for determining if such a corporation is to be included are as follows:

1. The group applying must have an affiliation with a council of the Presbyterian Church (U.S.A.).
2. The group must independently meet the qualifications for exemption under Section 501(c)(3) of the Code.
3. The affiliated council must exert control over the group applying. Examples include control by the council in the areas of finances, policies, the group's programs, and electing a majority of the board. Additionally, the board must be populated solely by Presbyterian Church (U.S.A.) members, elders, or ministers of Word and Sacrament.

A copy of these guidelines can be secured by calling Kathie Lyvers, Legal Office Administrator, Office of Legal Services. Her number is 1-888-728-7228 ext. 5020. Her email address is kathie.lyvers@pcusa.org.

The general exemption number listed on the Group Ruling granted to the Presbyterian Church (U.S.A.) is 1617. Every entity that is incorporated has a separate employee identification number (a nine-digit number). **Synods, presbyteries, or local congregations that are incorporated or have employees should have separate employee identification numbers.** For purposes of the federal Group Ruling, synods, presbyteries, and local churches should use the Presbyterian Church (U.S.A.)'s general exemption number (1617) in conjunction with their own employee identification number. An employee identification number can be obtained by completing IRS Form SS-4/Application for Employee Identification Number. This form can be obtained from the IRS. The current telephone number for IRS forms and publications is 1-800-829-3676. IRS forms are available at <http://www.irs.ustreas.gov/formspubs/index.html>

B. Disclosure Regulations

The IRS issued final regulations relating to the public disclosure requirements of section 6104(d) of the Code. These regulations were effective June 8, 1999. Section 6104(d) sets forth the obligations of organizations exempt under 501(c) of the Code. Therefore, the Presbyterian Church (U.S.A.) and its related entities are subject to the section 6104(d) regulations. The regulations include various ramifications for religious organizations. This summary will focus only on the issues that affect entities that fall under the Presbyterian Church (U.S.A.)'s Group Ruling (see above discussion).

Under the public disclosure requirements of section 6104(d), organizations exempt under section are required to permit inspection and provide copies of their exempt status application material (Form 1023 or Form 1024) and Form 990s. In addition, the Pension Protection Act of 2006 extends the current law regarding public disclosure to the unrelated business income tax form, Form 990-T, effective for forms filed after August 17, 2006. Organizations, however, whose applications were filed before July 15, 1987 and did not possess a copy of the application on that date, are exempt from providing a copy of the application. **The Presbyterian Church (U.S.A.) does have a copy of its application. You may secure a copy of it by calling April Davenport, Associate General Counsel, at (888) 728-7228 x5350.** As stated

above, Presbyterian Church (U.S.A.) and its related entities, by virtue of the group ruling, are not required to file a Form 990. Therefore, this portion of the regulation does not apply to the Presbyterian Church (U.S.A.) or its related entities.

With the above in mind, Presbyterian Church (U.S.A.) **and its related entities covered under the Presbyterian Church (U.S.A.) Group Ruling are required to provide for inspection or copying only the page of the current Statistical Volume on which it appears as well as a copy of its exempt status application.** If an organization does not have a copy of these materials, it has two weeks in which to obtain a copy of the appropriate page and application in order to comply with the provisions of section 6104(d). The most recent Statistical Volume should be available at your presbytery or synod office. It is also available by calling Kris Valerius, Manager for Records in the Office of the General Assembly at (888) 728-7228 x5427. The following is a sample disclosure statement for your reference and may be revised as needed.

Sample Section 6104(d) Disclosure Statement

First Presbyterian Church is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code by virtue of its inclusion in the group tax exemption (GEN #1617) of the Presbyterian Church (U.S.A.) ("PC(USA)"). Because of its inclusion in the PC(USA) Group Ruling, First Presbyterian Church did not file an application for exemption, Form 1023. A copy of the PC(USA) Group Ruling letter and its application for exempt status can be obtained by calling **Kathie Lyvers, Legal Office Administrator, Office of Legal Services. Her number is 1-888-728-7228 ext. 5020. Her email address is kathie.lyvers@pcusa.org.**

As provided in section 301.6104(d)-3(f) of the Regulations, First Presbyterian Church will provide for public inspection and copying the pages of the current edition of the Statistical Volume of the PC(USA) General Assembly *Minutes*, Volume II ("Statistical Volume") on which it appears.

Under the provisions of section 6033(a)(2)(A)(I) of the Code, First Presbyterian Church is not required to file an annual information return, Form 990. Accordingly, there is no Form 990 subject to public inspection under section 6104(d).

Compliance with section 6104(d) is required independently by each organization that is a separate legal entity under civil law. Thus, for example, if a church has a day care center that is separately incorporated and not listed separately in the Statistical Volume, then the day care center is under a different set of compliance rules if it is not under the Presbyterian Church (U.S.A.)'s Group Ruling. Private legal counsel should be consulted in those situations. Additionally, the above disclosure would not apply in these situations.

C. Restrictions on Political Activity and Lobbying

Church organizations, as a condition of the Group Ruling Exemption under Code section 501(c)(3), must be engaged in activities that further exclusively religious purposes. Churches may not participate in political activities, and a substantial part of their activities may not attempt to influence legislation.

IRS Publication 1828, [*Tax Guide for Churches and Religious Organizations*](#), states:

Under the Internal Revenue Code, all IRC section 501(c)(3) organizations, including churches and religious organizations, are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made by or on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violation of this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise tax.

It is important to distinguish between political activity and witnessing/lobbying. Political activity typically involves a candidate for office or political party. Witnessing/lobbying involves a public issue or legislation. Political activity is strictly prohibited. Lobbying is merely limited. What constitutes a "political activity" versus "lobbying?" Political activity includes endorsements and statements of opposition of particular candidates, parties, or political action committees; provisions of financial and other support; provisions of mailing lists; sponsoring of political action committees; and distributions of partisan campaign materials. The political activity prohibition does not prevent candidate forums being held in or sponsored by a church. As long as such activities are evenhanded, nonpartisan, and demonstrate no favoritism for a particular candidate (or opposition to a particular candidate), they are allowed.

Witnessing/lobbying, on the other hand, includes contacting or urging the public to contact members of the legislature or the executive for the purpose of proposing, supporting, or opposing legislation or advocating the adoption or rejection of legislation. Witnessing/lobbying may be engaged in as long as it does not constitute a substantial part of the organization's total activities. While neither the Code nor the Regulations define what is substantial, a few cases suggest that the line between what is insubstantial and substantial lies somewhere between 5 percent and 15 percent of an organization's total activities as measured by time, effort, expenditure, and other relevant factors. The Legal Office advises your mid council or church to keep such expenditures at the lower end of the spectrum.

For more information concerning these issues, the following websites provide very helpful additional information:

1. The Pew Forum's article *Preaching Politics from the Pulpit*. Link: <http://www.pewforum.org/Church-State-Law/preaching-politics-from-the-pulpit-2012.aspx>

2. The *Legal Resource Manual for Presbyterian Church (U.S.A.) Middle Governing Bodies and Churches'* Taxation Section. Link: <https://www.pcusa.org/resource/legal-resource-manual/> Please see pages 90 and 91 of 187 of the pdf document found using the link.
3. The Internal Revenue Service publication *Tax Guide for Churches and Religious Organizations*. Link: <http://www.irs.gov/pub/irs-pdf/p1828.pdf>
4. Additional Information from the Internal Revenue Service Related to Political Campaign Intervention by Tax-Exempt Organizations. Link: [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501\(c\)\(3\)-Tax-Exempt-Organizations](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501(c)(3)-Tax-Exempt-Organizations)

III. New Developments

A. 2006 Changes to Federal Substantiation Rules

The Pension Protection Act of 2006 (“PPA”) included a number of changes of interest to churches and other tax exempt organizations. One such change involves the necessary substantiation of cash gifts. Cash, checks, and credit card donations fall into this category. Effective for contributions made in 2007, no charitable deduction will be allowed with respect to a gift of cash unless the donor maintains either a bank record (i.e., a cancelled check) or written communication (which would include correspondence via email) from the donee charity showing the name of the charity and the date and amount of the contribution. (See PPA section 1217.)

B. Reissuance of Publication 1828, Church Tax Guide

The IRS reissued this publication in September 2006 in order to reflect certain provisions of the PPA. Specifically, a section has been added to page 29, reflecting the new recordkeeping requirements applicable to cash contributions made on or after January 1, 2007.

This is a plain-language resource and, while not a comprehensive overview of the tax law as it applies to churches and religious organizations, is an excellent resource of basic information drafted by the IRS for churches. (The specific link follows at the end of this outline.) The publication covers topics such as tax-exempt status, inurement and private benefit, political activity and lobbying, unrelated business taxable income, employment taxes, compensation of ministers, employee business expenses, record keeping and filing requirements, charitable contribution substantiation, and audit rules.

The IRS considers this publication a “living document” and will revise it to take into account future developments and feedback. Therefore, this publication has been updated in minor respects since its 2006 reissuance. The current version is dated August, 2015.

C. Issuance of Publication 4573, Group Exemptions

In December 2006¹, the IRS issued Publication 4573, *Group Exemptions*, which is available on the IRS website. (The specific link follows at the end of this outline.) Publication 4573 describes the basic group ruling process in a question and answer format. Page 4 is particularly important for church group ruling subordinates, since it addresses two important issues for their donors: (1) How do I verify that an organization is included as a subordinate in a group exemption ruling? and (2) How do donors verify that contributions are deductible pursuant to Code section 170 with respect to a subordinate organization in a section 501(c)(3) group exemption ruling?

The responses to these questions verify that donors may rely on either the official subordinate listing approved by the central organization that holds the group ruling, here Presbyterian Church (U.S.A.), or by contacting the central organization directly for verification. Publication 4573 makes clear that group ruling subordinates do not need to be listed in Publication 78 or the Exempt Organizations Business Master File in order to qualify for deductible contributions and that group ruling subordinates do not receive their own determination letters.

D. Property Taxes (State)

The exemption of religious organizations from taxation on real property dates back to ancient times. Today, all 50 states exempt buildings used exclusively as places of religious worship. However, the treatment of surrounding grounds, activities buildings, manses, other residences, vacant land, campgrounds and retirement homes varies from state to state. In addition, the states differ with regard to their treatment of property not used exclusively for religious purposes. Some states deny the exemption with respect to the entire property. Other states recognize a partial exemption for the portion, usually a percentage, of the property that is used exclusively for religious purposes. The Tax Guide contains an excellent table which provides a state-by-state recitation of property tax exemptions and their sources.

The experience of the Legal Office is that, as state and local governments need additional revenue, the property tax exemptions are more aggressively policed and the law enforced. However, the number of calls from mid councils and churches re this issue to the Legal Office remains relatively low overall.

IV. Tax Resources

IRS phone number for forms and publications: 1-800-829-3676

IRS Web site for forms and publications:

<http://www.irs.ustreas.gov/formspubs/index.html>

¹ The current version of this publication is dated June, 2007.

Church and Clergy Tax Guide by Richard R. Hammar. A new edition is published each year. Call Your Church Resources/Christianity Today to order: 1-800-222-1840 or visit the “bookstore” at www.ChurchLawAndTaxStore.com

Tax Guide for Ministers and Federal Reporting Requirements for Churches by Richard R. Hammar and distributed by The Board of Pensions of The Presbyterian Church (U.S.A.) each year via Benefits Connect on www.pensions.org

Internal Revenue Service Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers: <http://www.irs.gov/pub/irs-pdf/p517.pdf>

Internal Revenue Service Publication 1828, Tax Guide for Churches and Religious Organizations: <http://www.irs.gov/pub/irs-pdf/p1828.pdf>

Internal Revenue Service Publication 4573, Group Exemptions: <http://www.irs.gov/pub/irs-pdf/p4573.pdf>