

# Who Is a Minister for Tax Purposes?

## NBUSA MEMO 12

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Who is a minister for tax purposes? The answer is important because it affects how an individual reports compensation and pays taxes. The United States government has created tax laws that are specifically applicable to ministers, making them:

- Eligible for special housing arrangements, such as a minister's housing allowance or exclusion from income of the fair rental value of a parsonage;
- Self-employed for Social Security purposes for ministerial income;
- Exempt from federal income tax withholding; and
- Required to make quarterly estimated tax payments, unless they elect voluntary withholding.

(See Memo #1: *Housing for Your Pastor: Parsonage or Housing Allowance?*; Memo #3: *Tax and Reporting Procedures for Congregations*; and Memo #13: *The Minister's Housing Allowance*.)

The Church of the Nazarene has several different designations of ministry which are determined on the basis of criteria such as experience, training, and calling. However, not everyone who might be recognized as a minister would be considered as such by the tax laws. Let's begin our review of this topic by examining just who the IRS and tax courts consider to be a minister. Then we'll explore standards the Church of the Nazarene requires of those to whom it grants authority to perform the recognized duties of a minister.

### See:

Memo #1: *Housing for Your Pastor: Parsonage or Housing Allowance?*

Memo #3: *Tax and Reporting Procedures for Congregations*.

Memo #13: *The Minister's Housing Allowance*.



## 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 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 maintenance 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 college, the seminary, the Global Ministry Center, or The Foundry (formerly NPH).]
- 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!

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



### Remember!

An “integral agency” as described in IRS rules would include the Nazarene liberal arts colleges, the Bible college, the seminary, the Global Ministry Center, and The Foundry.

## 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 (531). The local minister is not eligible to administer the sacraments of baptism and the Lord’s Supper, and shall not officiate at marriages (531.7). Therefore, it is not possible to identify the local minister as a ministerial employee for tax purposes.



### Caution!

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

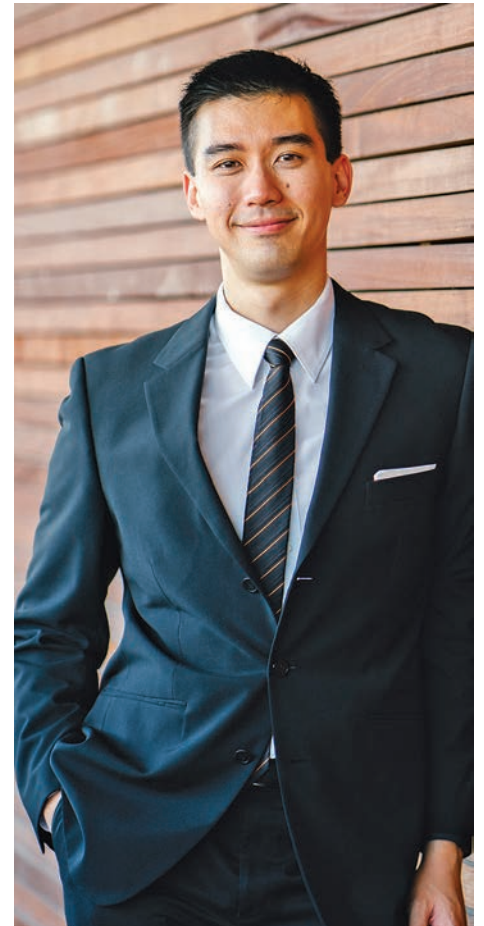
### The Licensed Minister (District License)

A licensed minister is one whose ministerial calling and gifts have been formally recognized by the district assembly through the granting of a ministerial license. The district license authorizes and appoints the minister to a larger sphere of service and to greater rights and responsibilities than those pertaining to a local minister, normally as a step toward ordination as an elder or a deacon. Granting of the district license acknowledges a call to a lifetime of ministry and the fulfillment of other requirements outlined in the *Manual* (532ff).

Licensed ministers shall be vested with authority to preach the Word and/or to use their gifts and graces in various ministries to the Body of Christ. In addition, provided they serve in an assigned ministry recognized by the district on which they hold their ministerial membership, licensed ministers shall also be vested with authority to administer the sacraments of baptism and the Lord’s Supper in their own congregations, and to officiate at marriages where the laws of the state do not prohibit (532.7).

### 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 (533.1). The deacon has the authority to administer the sacraments and, on occasion, to conduct worship and to preach (533.2).



### 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 (543.3).

## How the Courts Have Ruled

Court action in 1989 established five 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 four—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.”

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.

Additionally, 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:

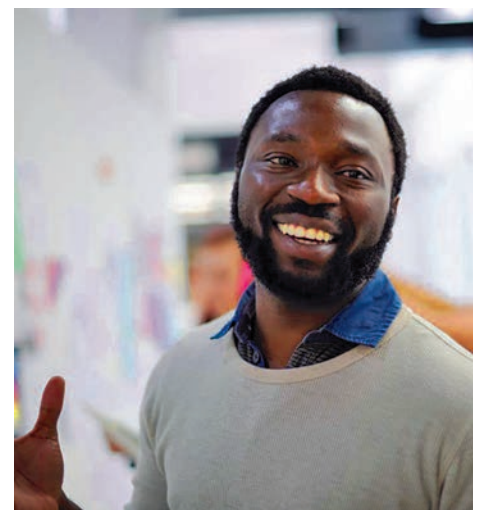
*Example 1:* Alfred is ordained and pastors First Church. He conducts worship and administers the sacraments. Alfred is a minister for tax purposes.

*Example 2:* Brenda is district-licensed and pastors First Church. Brenda conducts worship and administers the sacraments. Brenda 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:* Dan is district-licensed and is an associate pastor at First Church. He occasionally conducts worship and administers the sacraments. Dan is a minister for tax purposes.

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



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

*Example 7:* Gail is district-licensed and works for an agency of the denomination in an administrative role. Gail is a minister for tax purposes.

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

*Example 9:* Bob 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:* Jacob is a registered or commissioned minister of music or song evangelist. Jacob is not a minister for tax purposes unless he also holds a district minister's license or is ordained as a deacon or elder.



### Remember!

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

## Finally...

God's call to service in the lives of men and women is unique. The Church recognizes this, as does the federal government. Seeking to better understand and follow the tax laws that apply to clergy can have many benefits, including keeping you out of trouble with the IRS.



## Other NBUSA Memos that May Be Helpful

- MEMO # 1: *Housing for Your Pastor: Parsonage or Housing Allowance?*
- MEMO # 2: *Church Employees or Independent Contractors?*
- MEMO # 3: *Tax and Reporting Procedures for Congregations*
- MEMO # 4: *Strategies for Structuring Ministerial Compensation*
- MEMO # 5: *Minimizing Income Taxes for Church Employees*
- MEMO # 6: *Housing Allowance in Retirement*
- MEMO # 7: *Financially Caring for the Minister*
- MEMO # 8: *The Annual Church Audit*
- MEMO # 9: *Workers' Compensation Laws and the Local Church*
- MEMO # 10: *Can Ministers Opt Out of Social Security?*
- MEMO # 11: *Auto and Other Business Expense Reimbursements*
- MEMO # 13: *The Minister's Housing Allowance*

The information contained in this memo series is of a general nature reflecting USA Nazarene Church polity. It is not offered as specific legal or tax advice. Each person, local church board, and district should evaluate their own unique situation in consultation with their local legal and tax advisors.

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