



## RELIGIOUS EXEMPTIONS



Members of religious orders may obtain an exemption from the obligation to pay self-employment tax if they meet certain requirements. Basically, these requirements are divided into two areas: those members of recognized religious sects opposed to insurance, and those members of religious orders who have taken a vow of poverty.

### VOW OF POVERTY

Members of religious orders who have taken vows of poverty are automatically exempt from self-employment tax for any amount earned while working for their church or for an agency of their church. These ministers do not have to file for an exemption. Any work performed by a minister for an outside organization, however, makes the minister a regular employee of the outside organization for employment tax purposes. Thus, earnings will be subject to withholding of federal income tax, social security tax and federal unemployment tax. The exemption from self-employment tax does not apply to outside earnings.

### OPPOSITION TO INSURANCE

Individuals who belong to a recognized religious group that is opposed to insurance may qualify for an exemption from self-employment tax. To qualify, the taxpayer must be conscientiously opposed to accepting the benefits of any public or private insurance which makes payments as a result of death, disability, old age or retirement or makes payments for medical care. Where an employer and an employee are both members and adherents of a recognized religious organization that is opposed to insurance and have both properly filed the required forms, both are exempt from employment taxes.

Religious opposition to payment of taxes that is based upon the teachings of the sect is the only ground for the exemption; however, the sect must have existed since December 31, 1950. Individuals who have purchased retirement annuities from insurance companies are ineligible for the exemption.

### OBTAINING THE EXEMPTION

In order to elect to be exempt from self-employment tax, the minister must file Form 4361, "Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners," together with a statement that he is either conscientiously or because of religious principles opposed to the coverage. As a condition for receiving an exemption from social security coverage, such an individual must now inform the ordaining, commissioning or licensing body of the church or order that the individual is opposed to such insurance.

Furthermore, an application for exemption will be approved only if the secretary has verified that the individual applying for an exemption is aware of the grounds on which an exemption is granted and is seeking the exemption on such grounds. A statement will be sent to the individual that describes the grounds on which the exemption is granted and the individual must certify that he has read the statement and is seeking exemption on the grounds listed in the statement. Generally, exemptions are irrevocable once obtained.

An individual entering the ministry should file applications for an exemption by the due date for filing individual income tax returns for the second tax year in which the individual has \$400 or more of net earnings from self-employment, some of which was from service in the ministry.

## OPTING OUT OF SOCIAL SECURITY

Most ministers spend a big chunk of their incomes on social security taxes. That's why some ministers think it's a good idea to opt out of social security. Unfortunately, many ministers don't realize that they cannot opt out of social security for financial reasons. And many of them don't understand the long-term consequences of their decision. This article will examine the rules about opting out of social security.

### FORM 4361

The only way a minister can opt out of social security is by properly completing and filing IRS Form 4361. Form 4361 is called "Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners." Technically, a minister who files Form 4361 is asking the Internal Revenue Service (IRS) for an exemption from paying social security taxes; however, this process is popularly called "opting out" of social security.

Perhaps the most important feature of Form 4361 is the following statement: "I certify that I am conscientiously opposed to, or because of my religious principles I am opposed to, the acceptance (for services I perform as a minister, member of a religious order not under a vow of poverty, or a Christian Science practitioner) of any public insurance that makes payments in the event of death, disability, old age, or retirement: or that makes payments toward the cost of, or provides services for, medical care. (Public insurance includes insurance systems established by the Social Security Act.)" Few ministers, regardless of their denominations or theological backgrounds, can sign this statement. Notice that the form says that the minister must be opposed to receiving these benefits, not paying for them.

Ministers who are truly opposed to receiving social security benefits can opt out only with respect to their ministerial income. That means that bivocational ministers and ministers with any other earnings subject to social security must continue to pay social security taxes on their non-ministerial income. They will also be eligible for social security benefits based on these other earnings, assuming they have enough to qualify for benefits.

Ministers who are opposed to receiving social security benefits must file Form 4361 very early in their careers. The deadline is the due date, including extensions, for the tax return for the second tax year in which they have at least \$400 of net self-employment earnings, any part of which came from services as a minister, member of a religious order, or Christian Science practitioner. There are no exceptions for this deadline. Obviously, ministers cannot develop their opposition to social security later in their careers.

Ministers must file an original Form 4361 and two copies. Before filing, however, the minister must inform the licensing, commissioning, or ordaining body of the church that he or she is opposed to the acceptance of public insurance benefits based on ministerial service on religious or conscientious grounds. Some ministers will receive a written response from that body stating the church's position about opting out of social security. In some cases, denominations will warn new ministers that the denomination does not oppose the receipt of social security benefits.

Merely filing Form 4361 does not exempt a minister from social security taxes. Instead, the exemption must be approved by the IRS, and the minister is not exempt until the IRS returns the form marked "approved." Before the IRS will approve the exemption, however, the IRS will send the minister a statement describing the grounds for the exemption. Under penalty of perjury, the minister applying for the exemption must sign a statement verifying that he or she read the statement and is seeking an exemption under the grounds listed on the form.

## **FINANCIAL CONSIDERATIONS**

Despite the fact that conscience and religious principles are the only reasons a minister can opt out of social security, some ministers may be persuaded to opt out for financial purposes. Financial reasons should not play a role in a minister's decision, because that's not a legal reason for opting out. Nevertheless, even ministers who mistakenly opt out for financial reasons may not appreciate all of the consequences. On the surface it's easy to assume that if a minister invested the money he or she would otherwise pay for social security, that he or she could reap a better retirement income. But in reality, are ministers going to come out ahead in retirement if they don't participate in social security? Not likely. And while people focus on the possible inadequacies of social security retirement benefits, they may lose sight of other important social security benefits. Can ministers provide the same survivor and disability benefits without participating in social security? Can they replace Medicare benefits they will forfeit if they opt out? Again it's unlikely.

## **AN IRREVOCABLE DECISION**

No minister should file Form 4361 without some soul searching of his or her beliefs about receiving social security benefits for ministerial income. Ministers also should bear in mind that the decision to opt out is irrevocable. Once they opt out they cannot opt back in. Several years ago, Congress briefly opened a window to allow ministers who had opted out to opt back in. That window is now closed and probably won't open again. Ministers who apply for exemption from social security should realize that they are making a decision that will affect them for the rest of their lives.

## **SUMMARY**

In summary a minister's decision to opt out of social security should not be made for financial reasons. Legally, the decision can be made only because a minister opposes receiving social security benefits because of conscience or religious principles. But this decision based on conscience or religious principles can have some very important financial consequences. Ministers should make this decision only after some very careful and prayerful consideration.

By Julie L. Bloss

