

# Congregation's Payments to (or for the benefit of) a Vicar

## Tax Aspects<sup>®</sup>

In general, a vicar must be treated for all tax purposes as a **lay employee** of the congregation. Until the vicar is ordained, he does not meet IRS's criteria for "minister of the Gospel". Therefore, the tax aspects unique to ministers do not apply to vicars. The congregation must **withhold federal income taxes** from the vicar's paycheck **and remit them to IRS** just as it does with all other lay employees (state tax withholding may also apply). It must also **withhold half of the vicar's social security and Medicare tax liability and remit it to IRS (under the FICA system), matching that payment with one of its own.**

To calculate the federal income taxes which must be withheld from payments to him, each vicar must file with his congregation an IRS Form W-4, Employer's Withholding Exemption Certificate. On this form, the vicar will indicate his marital status and the number of allowances he claims. If a vicar has sufficient "non-employee" income, he also may claim an additional amount to be withheld from each paycheck or be obligated to file IRS Form 1040-ES and make quarterly payments of estimated tax. States that impose income tax withholding on wages may mandate the use of a similar certificate to properly calculate them.

Wages subject to employment taxes (i.e., the employer's 50% share of FICA) include all pay the congregation gives an employee for services he performs. The pay may be in cash or in other forms. Cash payments include his salary, allowances, and certain reimbursements; other forms include his fringe benefits.

A vicar's cash payments are taxable, as are most of his fringe benefits. These are also subject to social security, Medicare, and federal income tax withholding (state income tax withholding, if applicable).

Cash payments are *treated as paid* during the pay period in which the vicar is actually paid. The taxable noncash fringe benefits may be *treated as paid* by the pay period, or by the quarter, or on any other basis as long as the benefits are *treated as paid* at least as often as once a year and no later than December 31. When the congregation treats the fringe benefits *as paid*, it usually adds their value (or estimated value) to cash payments and figures withholding taxes (social security, Medicare, federal, and applicable state) on the total. If a large portion of the vicar's pay during any pay period includes taxable noncash fringe benefits, the taxes that must be withheld could dramatically reduce his net paycheck.

Generally, the value of noncash fringe benefits must be determined no later than January 31 of the next year. Before then, at least a reasonable estimate of their value must have been made for purposes of withholding and depositing on time. If the required amount of taxes were deposited timely but a lesser amount was actually withheld

from the vicar's paycheck (this decision may have been necessary if the vicar's tax liability exceeded his pay or left him with insufficient funds to provide for his daily needs), his Form W-2 may reflect the taxes withheld *as if he had paid them*; however, the congregation must collect the receivable created by this transaction from him before April 1 of the following year.

The actual list may be longer, however, the most common types of pay provided to a vicar are, as follows:

- **Salary**—Salary is generally paid in the form of a cash payment. For purposes of tax withholding, it is treated *as paid* during the pay period in which it is actually paid.
- **Housing/Utilities**—Financial guidelines adopted by the Council of Presidents state the congregation should provide its vicar with a housing allowance or provide housing and utilities without cost to the vicar. However, a vicar does not receive this form of pay tax-free, as would an ordained minister.
  - A "housing allowance" paid to a vicar is treated as salary or any other form of cash payment. It is treated *as paid* during the pay period in which it is actually paid.
  - A house or apartment provided to the vicar is a taxable fringe benefit. Its fair market value constitutes wages; likewise, any utility payments made by the congregation directly to the utility company. These are treated *as paid* on any basis the congregation chooses but at least as often as once a year. The only circumstances under which the employer-provided housing may be excluded from his taxable wage income is if the home is on church premises and it is provided solely for the convenience of the congregation and occupancy of such housing is a condition of the vicar's service to the congregation.
- **Moving/Relocation** (from/to the seminary)—A typical vicarage is a temporary work assignment of a definite time duration (of less than one year), as opposed to a permanent work assignment having an indefinite term. Accordingly, while a vicar may meet the 39-week requirement of IRC Sec. 217(c), he does not meet the requirement that the move be to a new "principal place of work". Therefore a vicar's moving expenses, reimbursed by the congregation or paid directly to a third party, are treated as taxable. Reimbursements for moving

(Continued on reverse)

expenses paid directly to the vicar are treated as *paid* during the pay period when it is actually paid. Payments paid directly to a third party can be treated as a fringe benefit and considered *paid* on any basis the congregation chooses but at least as often as once a year.

- **On-the-job transportation expenses**—A car allowance paid to a vicar should be treated in the same manner as one paid to any other employee: i.e., as salary or any other form of cash pay. It is treated as *paid* during the pay period in which it is actually paid. However, reimbursements for business-related transportation paid under an Accountable Plan may be excluded from a vicar's taxable wage income. Commuting between work and home is a nondeductible personal expense. If the congregation reimburses the vicar's commuting expenses, the payments are treated as cash pay and considered *paid* when it is actually paid.
- **Tax subsidies**—If the congregation pays any portion of a vicar's tax liabilities without deducting them from his pay, these payments must be included in the vicar's wages and are subject to social security, Medicare and income tax withholding. The payments also increase the amount of additional taxes the congregation must pay in terms of its share of FICA. Refer to IRS Publication 15-A (under *Special Rules for Paying Taxes*) for guidance on how to figure the vicar's increased wages in this situation.

The congregation must provide the vicar with an IRS Form W-2, Wage Statement, for each year in which the vicar serves just as it does for any other lay employee. The vicar will use the information reported on Form W-2 to complete his individual income tax return (and state return, if applicable).

## Health Insurance

Seminary students, including vicars, are enrolled in the Synod's Concordia Health Plan unless they have opted out because they are enrolled in another group health plan or governmental coverage. Dependent enrollment in the Concordia Health Plan is optional. The vicar's payment for Concordia Health Plan coverage is part of his seminary tuition payments.

The financial guidelines adopted by the Council of Presidents also state the congregation is to assist the vicar and his family with health insurance. This can be accomplished by reimbursing the vicar for the cost of his Concordia Health Plan coverage or the other coverage he is purchasing. **Such reimbursements to the vicar for health plan premiums are not taxable if proof is provided to the congregation that the coverage is in**

**force (Rev. Rul. 61-146).** However, an allowance that is paid to the vicar without requiring him to provide proof of payment and coverage is subject to Social Security, Medicare, and income tax withholding.

## Concordia Plans

A vicar who has not completed his course work at the seminary is not eligible to be enrolled as a *worker* in the Concordia Plans because the Plans still consider him a student and not an eligible employee of the congregation. **However, a vicar who has completed his course work at the seminary (i.e., a delayed vicar) is eligible for enrollment in the Concordia Plans as a lay worker, at the option of the congregation.** Contributions made by the congregation to any of the Concordia Plans for a deferred vicar are not taxable income to him. Also, contributions are not "wages" for FICA purposes.

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This bulletin shows that the congregation's cost of employing a vicar is not limited to the vicar's salary and other benefits provided by the congregation. The congregation will additionally incur a FICA tax liability calculated on the total value of most of those benefits. To make sure that tax and insurance matters are handled properly, each supervisor and/or congregational treasurer should be acquainted thoroughly with the above information. The information should also be shared with the vicar so he, too, understands that his liability for income taxes, social security, and Medicare is based on more than just his salary.

General inquiries may be addressed to the Synod's Accounting Department, asking for the Director of Tax and Compliance. For more specific advice, consult with a tax professional.

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© This bulletin was designed to address the tax concerns of most LCMS vicars. It does not apply to individuals currently listed on Synod's roster as commissioned ministers of religion, nor to those "away from home" as defined under IRC Sec. 162.

If the vicar is a commissioned minister of religion, compensation and housing provided to him during his vicarage are treated and reported similarly as a pastor's for tax purposes.

If the vicar is "away from home" (that is, he maintains another home elsewhere while serving his temporary vicarage assignment), he may be eligible to exclude from taxable wages all employer-provided travel, incidental expenses, meals (50%) and lodging. However to qualify for this exclusion, there must be *substantial* continuing expenses in the maintenance of a home that will be duplicated when traveling away from it. In one case, a court didn't consider the duplicated expenses *substantial* when the only expenses duplicated were mortgage, utilities and telephone costs. Therefore, request that a professional tax consultant consider all relevant facts to determine if these expenses are excludible under IRC Sec. 162.