

INCOME OR NOT? BONUSES, CHRISTMAS, SPECIAL OCCASIONS, RETIREMENT GIFTS.

Since 1995, IRS audit guidelines have listed gifts to ministers as income. Commissioner v. Duberstein, 363 U.S. 278, 285 (1960) defines gifts as proceeding from “a detached and disinterested generosity” and as being motivated by “affection, respect, admiration, charity or like impulses. The donor’s intent is the most important factor. Certain factors make the gift more likely to be taxable: 1) the church adjusts or formulates the minister’s salary based on the usual amount of the special offerings, or 2) the contributions are a part of a regularly taken offering. Certain factors make the gift more likely to be nontaxable: 1) the minister is well compensated for his services without these offerings, or 2) the offering was completely spontaneous.

CHURCH LAW

In 1955 an IRS Revenue Ruling stated that a minister could receive a retirement gift tax-free if: 1) the payments were not made under an enforceable agreement, established plan or past practice; 2) no further services were required or performed; and 3) the minister had been adequately compensated for past services rendered. A private IRS letter retracted this Revenue Ruling based on the Duberstein decision. Ministers who are employees of a church must include retirement gifts from their employer as income. Those who are not employees must still meet the Duberstein tests. If individuals in the congregation make spontaneous retirement gifts to a minister who has been well compensated for his services, these might pass the test and be more likely to be nontaxable.

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