

# **PASTOR'S COMPENSATION AND BENEFITS MANUAL 2010**

*Adopted June 2009*

The ELCA Board of Pensions Internet site provides a defined compensation calculator at [www.elcabop.org/Home/Calculators/DefinedCompensation.aspx](http://www.elcabop.org/Home/Calculators/DefinedCompensation.aspx), and a contribution amounts calculator at [www.elcabop.org/Home/Calculators/ContributionAmounts.aspx](http://www.elcabop.org/Home/Calculators/ContributionAmounts.aspx). Use the defined compensation calculator to figure defined compensation, which is the basis for calculating ELCA health, retirement, disability and survivor benefit contributions. Use the contribution amounts calculator to determine ELCA contribution amounts that congregations pay to provide benefits for rostered persons, based on defined compensation.

**Lower Susquehanna Synod, ELCA  
900 S. Arlington Avenue  
Harrisburg, PA 17109**

# CONTENTS

	<u>Page No.</u>
Introduction	2
2010 Worksheet	3
<b><u>A. COMPENSATION</u></b>	4
A.1.a Base Salary	5
A.1.b Housing Allowance	6
A.1.c Total Base Salary and Housing Allowance	4
A.2 Social Security Tax Allowance	6
A.3.a Utilities Allowance	7
A.3.b Furnishings Allowance	7
A.3.c Housing Equity Contribution	8
<b><u>B. ELCA PENSION AND OTHER BENEFITS</u></b>	8
B.1 ELCA Pension Contribution	8
B.2 ELCA Medical and Dental Insurance	9
B.3.a ELCA Disability, Survivor Benefits and Administrative Expense	10
B.3.b Other Insurance or Benefits	10
Disability Survivor and Administrative Contribution	10
Medical and Dental Expense Reimbursement	10
Member Pre-Tax Contribution	11
Individual Retirement Account (IRA)	11
<b><u>C. AGREEMENT</u></b>	11
C.1 Vacation	11
C.2 Continuing Education - Time	11
C.3 Sick Leave	12
C.4 Parental Leave	12
C.5 Sabbatical Leave	12
C.6 Holidays	12
<b><u>D. EXPENSES</u></b>	12
D.1 Automobile Expenses	12
D.2 Other Professional Expenses	13
D.3 Assembly/Conference Expenses	13
D.4 Continuing Education - Funding	13
D.5 Book/Periodical Expenses	13
D. 6 Pastoral Supply Rate	14
<b><u>Resources</u></b>	14
Appendix A - Housing, Utilities, Furnishings Allowance Designation Forms	
<u>Pastor Who is Renting or Owns a Home:</u>	
Pastor's Estimate of Household Expenses	15
Draft Language for Church Council Action on Housing Allowance	16
Notification of Housing Allowance by Congregation	17
<u>Pastor Whose Congregation Provides a Parsonage:</u>	
Utilities and/or Furnishings Allowance	17
Appendix B - Determination of Defined Compensation	18
Appendix C - Rationale for Recommendations on 2010 Compensation	19
Appendix D - Debt Load of Newly Ordained Pastors	20
Appendix E - ELCA Board of Pensions Health Plan Changes in 2010	20
Appendix F - Flexible Spending Accounts	20
Appendix G - Ministerial Health and Wellness	21
Appendix H - Pastors' Discretionary Fund	21
Sample Policy	23
What is Charity?	23
Who Should Receive a 1099?	23

## Introduction

One of the ways we think of the pastor's ministry is in terms of his/her efforts on behalf of the lay members of the congregation. In the same way, the ministry of the laity includes the care of the pastor and of the pastor's family. This concern for one another in the congregation is a witness to what we believe and practice in the life of the church.

Although this manual is primarily oriented to parish pastors, it also applies to all agencies and institutions of our synod. When the manual speaks of "congregations," it also means those agencies and institutions.

In many congregations, a specific group of people is asked to have primary concern for this ministry to the pastor and the pastor's family. This group is often called a "Mutual Ministry Committee."

One of the key tasks of such a committee is to discuss with the pastor a fair and equitable compensation package. Since the pastor depends on the Congregation Council and the congregation to make ample provision for his/her financial needs, the pastor requires an opportunity to discuss those needs in an open and supportive forum. The Mutual Ministry Committee is in a position to provide such a forum. The committee can gather data from the pastor about his/her financial needs and subsequently make recommendations to the Finance Committee, Congregation Council and congregation for fair and equitable compensation.

There are reasons for the varieties of financial compensation packages within this synod and within other expressions of the Evangelical Lutheran Church in America. Some parishes have full-time pastors while others have less than full-time pastoral service. Some parishes have several pastors and other rostered persons on the staff. Other parishes have one pastor serving more than one congregation. It is the intention of our synod's policy to affirm the reality of many congregational styles in terms of pastor/congregational relationships while at the same time ensuring adequate and fair compensation.

This manual attempts to provide an additional resource to assist congregations and pastors in determining a compensation package; pension and other benefits; agreements relative to time off for continuing education, vacation, holidays, and sick leave; and appropriate reimbursement for professional expenses.

It is hoped that this manual also will assist congregations in their budget planning process by expanding upon the summary worksheet for 2010, "Parish Budget for Pastoral Ministry" (page 3).

The information contained herein has been compiled by the Committee on Compensation and Benefits of the Lower Susquehanna Synod, ELCA. Questions and comments about this "Pastor's Compensation and Benefits Manual" should be directed to the Office of the Assistant to the Bishop or to the Office of the Treasurer, 1-800-692-7282 ext. 102 or 107 or 1-717-652-1852 ext. 102 or 107.

### **For Pastors Under Call ~**

A congregation or multi-congregation parish shall not reduce any part of a pastor's compensation without negotiating such reductions with the pastor. At the time of call, a congregation and pastor enter into an agreement on the compensation package and sign the *DEFINITION OF COMPENSATION, BENEFITS, AND RESPONSIBILITIES OF THE PASTOR*. For the congregation/parish to reduce the pastor's compensation without negotiating with the pastor is to break the agreement. As a congregation/parish and pastor are in a mutual ministry, so any decisions concerning reduction in compensation are to be done mutually.

**2010 Worksheet Summary**  
**Parish Budget for Pastoral Ministry**

**A. COMPENSATION**

- |     |   |          |          |
|-----|---|----------|----------|
| 1a. | Base Salary                                 | \$ _____ |          |
| 1b. | Housing Allowance                           | \$ _____ |          |
| 1c. | Total Base Salary and Housing Allowance     |          | \$ _____ |
| 2.  | Self-Employed Social Security Tax Allowance |          | \$ _____ |
| 3.  | If parsonage is provided:                   |          |          |
| a.  | Utilities allowance                         | \$ _____ |          |
| b.  | Furnishings allowance                       | \$ _____ |          |
| c.  | Housing equity contribution                 | \$ _____ |          |

**B. PENSION AND OTHER BENEFITS**

- |     |  |                      |          |
|-----|--|----------------------|----------|
| 1.  | ELCA Pension at _____%   | Pension Contribution | \$ _____ |
| 2.  | ELCA Medical and Dental Insurance (circle one)   | Contribution         | \$ _____ |
|     | <i>a. Member only    b. Member and spouse    c. Member and children    d. Member, spouse, and children</i> |                      |          |
| 3a. | ELCA Disability, Survivor Benefits and Administrative Expense  |                      | \$ _____ |
| 3b. | Other insurance or benefits: _____   |                      | \$ _____ |
|     | _____  |                      | \$ _____ |

**C. AGREEMENT**

1. Vacation time of \_\_\_\_\_ per year, including \_\_\_\_\_ Sundays;
2. Continuing education time of \_\_\_\_\_ weeks per year (*minimum of two weeks per year that may be accumulated up to three years*);
3. Up to two months of continued salary, housing, and contributions to the ELCA Pension and Other Benefits Program in a 12 month period in the event that the pastor is physically or mentally disabled<sup>1</sup>; and
4. Where applicable, parental leave up to six weeks with full salary, housing and benefits.

**D. EXPENSES**

The congregation will provide for the following expenses related to the pastor's ministry.

- |    |  |          |  |
|----|--|----------|--|
| 1. | Automobile expenses  | \$ _____ |  |
| 2. | Other professional expenses                                  | \$ _____ |  |
| 3. | Expenses for official meeting of the synod                   | \$ _____ |  |
| 4. | Continuing education   | \$ _____ |  |
| 5. | Other (_____)  | \$ _____ |  |
| 6. | Pay the moving expenses to this field of service as follows: |          |  |
|    | _____  |          |  |
|    | _____  |          |  |

**TOTAL BUDGET FOR PASTORAL MINISTRY FOR 2010** \$ \_\_\_\_\_

1. Provision may be made for further unpaid time for disability recovery as agreed by the congregation but with the stipulation that unused accumulated sick leave will not be compensated at the end of this call.

Congregations are encouraged to use the background and rationale contained in this manual (Appendix C, p. 19), in addition to the section on "Base Salary and Housing Allowance" (section A.1.b) in communicating total compensation for budgeting purposes.

**A. COMPENSATION**

The beginning point of any compensation package is the combined base salary and housing allowance figure. The variety of circumstances, resources, and needs represented by pastors and congregations make it extremely difficult to recommend one salary figure that would apply to every pastor of this synod. This synod in assembly has adopted a minimum base salary and housing allowance amount below which no pastor serving a full-time position ought to be paid. An actual salary amount beyond the minimum is expected and is a matter to be determined between pastor and Congregation Council, hopefully with the assistance of a congregation Mutual Ministry Committee. The care of the pastor and of the pastor's family is a significant ministry of the congregation laity. This concern for one another is a witness to what we believe and practice in the life of the church.

A.1.c Fill in the Combined BASE SALARY and HOUSING ALLOWANCE that the congregation is presently paying. \$ \_\_\_\_\_

Give Consideration to Responsibility/Proficiency/Cost of Living Factors. A fair rate of remuneration considers appropriate criteria or factors that are the basis for compensation.

The responsibility factor:

- The nature of the pastor's task
- The size of the congregation
- Staff or team ministry

The proficiency factor or how well the pastor accomplishes the task:

- Abilities of the pastor as preacher, worship leader, shepherd, teacher, counselor, administrator
- Experience as an ordained pastor

The cost of living factor:

- How much more it costs to maintain one's purchasing power
- Length of service in the ministry and with this congregation

Fill in on this line the amount of the proposed increase for 2010. \$ \_\_\_\_\_

Add together the above lines \$ \_\_\_\_\_  
(Carry this sum to page 6)

The minimum base salary and housing allowance for 2010 is established according to the full-time pastor's year of ordination as follows:

**Base Salary and Housing Allowance  
Should Exceed the Following Amounts in 2010**

Year Ordained	Minimum Base Salary And Housing Allowance Combined (No Parsonage)			Minimum Base Salary Only (Parsonage Provided)
	Not Less Than			Not Less Than
2010	44,840	-	53,830	31,350
2009	45,280	-	54,350	31,660
2008	45,460	-	54,450	31,980
2007	46,100	-	55,090	32,620
2006	46,760	-	55,740	33,270
2005	47,420	-	56,410	33,940
2004	47,630	-	56,530	34,280
2003	48,320	-	57,220	34,970
2002	48,670	-	57,570	35,320
2001	49,030	-	57,920	35,670
2000	49,380	-	58,280	36,030
1999	49,740	-	58,640	36,390
1998	50,110	-	59,000	36,750
1997	50,470	-	59,370	37,120
1996	50,840	-	59,740	37,490
1995	51,220	-	60,120	37,860
1994	51,590	-	60,490	38,240
1993	51,970	-	60,870	38,620
1992	52,360	-	61,260	39,010
1991	52,750	-	61,650	39,400
1990	53,150	-	62,040	39,790
1989	53,540	-	62,440	40,190
1988	53,940	-	62,840	40,590
1987	54,350	-	63,250	41,000
1986	54,760	-	63,660	41,410
1985	55,180	-	64,070	41,820
1984	55,590	-	64,490	42,240
1983	56,010	-	64,910	42,660
1982	56,440	-	65,340	43,090
1981	56,870	-	65,770	43,520
1980	57,310	-	66,210	43,960
1979	57,750	-	66,650	44,400
1978	58,200	-	67,090	44,840
1977	58,640	-	67,540	45,290
1976	59,100	-	67,990	45,740
1975	59,550	-	68,450	46,200
1974	60,010	-	68,910	46,660
1973	60,480	-	69,380	47,130
1972	60,950	-	69,850	47,600
1971	61,430	-	70,330	48,080
1970	61,910	-	70,810	48,560
1969	62,400	-	71,300	49,050
1968	62,890	-	71,790	49,540

1967	63,390	-	72,290	50,040
1966	63,890	-	72,790	50,540

Based on your pastor's year of ordination enter the minimum base salary and housing allowance from the schedule. The committee recommends that this figure be exceeded. For more than forty-four years experience, the committee recommends adding 1% per year of experience.

Enter the sum from page 4. \$ \_\_\_\_\_

Base Salary and housing allowance: Compare the amounts above and enter larger amount here. (Carry this sum to page 3, A.1.c Base Salary and Housing Allowance)

**A.1.b Housing Allowance**

Housing Allowance is that portion of a pastor's total compensation which includes all costs associated with providing and furnishing a home when a parsonage is not provided. The housing allowance should be sufficient to provide adequate housing as well as care for the related expenses of utilities and upkeep. Expenses that qualify to be used for a housing allowance include payments on purchase, principal and interest payments on mortgages, taxes, utilities, maintenance, insurance, furnishings, landscaping, etc. Housing costs have risen rapidly over the years and in many cases compensation increases have not kept pace with housing costs.

Your pastor may exclude the housing allowance from his/her taxable income up to the "fair rental value" of a furnished home plus utilities, to the extent that the allowance is actually expended for housing. The Internal Revenue Service gives special tax treatment to that portion of a pastor's compensation designated in advance as a housing allowance and spent during the year. Therefore, the pastor should request the congregation council to designate an adequate portion of the total salary package as a housing allowance as a benefit to the pastor. This is not an additional cost to the congregation, and is similar to the housing allowance provided to members of the armed forces. Congress on May 20, 2002 passed the *Clergy Housing Allowance Clarification Act of 2002* which provided further guidance for the clergy housing allowance.

The base salary and housing allowance should be considered together as a package with flexibility given to the pastor to designate an adequate amount for the designated housing allowance. For 2010, the housing allowance included in the minimum base salary and housing is \$13,490 to \$22,480.

Place the amount designated for housing allowance here: \$ \_\_\_\_\_  
(Carry this sum to page 3, A.1.b Housing Allowance)

**A.2 Social Security Tax Allowance**

For Social Security tax purposes, the pastor is treated as a self-employed person and pays Social Security under the Self-employment Contribution Act (SECA) rather than the Federal Insurance Contributions Act (FICA). In 2010 the rate for self-employed persons is 15.3%.

In 2004 the synod, in assembly, adopted a policy that congregations pay Social Security Allowance that is not less than 50% of the pastor's estimated Social Security tax, or pay an equivalent amount if the pastor has opted out of Social Security.

**Social Security Tax Allowance Worksheet**

Annual Base Salary \$ \_\_\_\_\_  
Housing: If a parsonage is provided, estimate the annual fair rental value

**OR**

If a housing allowance is provided, insert that amount here \$ \_\_\_\_\_

Add Annual Base Salary and the Housing amount \$ \_\_\_\_\_

A pastor is considered self-employed for social security purposes and is required to pay 100% of the social security taxes on her/his own tax return including what would normally be the employer share. Normally an employer pays the employer portion of social security taxes and an employee pays an employee portion. Since the total amount of social security tax payable by the pastor is 15.3%, it is recommend that congregations pay a minimum of 50% of this tax or 7.65%. Since, one-half the Social Security Tax paid by the pastor is allowed by the IRS as a deduction on his/her income tax return (Schedule SE) it is not necessary to impute the tax impact of paying this tax to the pastor.

By mutual agreement, a congregation may choose a higher amount of this required tax:

% of Social Security Paid by Congregation	<b>50.0%</b>	66 2/3%	75%	100%
Social Security Allowance Factor	<b>7.65%</b>	10.25%	11.48%	15.30%
	<b>Minimum</b>			

Discuss with your pastor the amount of his/her Social Security Tax. Determine by mutual agreement the percentage to be paid by the congregation. (See above but not less than 50%)

Social Security Allowance Factor from above based on congregation percentage \$ \_\_\_\_\_

(Carry to page 3, A.2. Social Security Tax Allowance)

**A.3.a. and A.3.b. Allowances for Utilities and Furnishings**

Section 107 of the Internal Revenue Code states that "in the case of a minister of the gospel, gross income does not include the rental value of a home furnished...as part of...compensation; or the rental allowance paid... as part of... compensation, to the extent used ... to rent or provide a home." Section 107 excluded the fair rental value provided rent-free as well as an allowance paid to the extent used to pay expenses incurred to maintain the parsonage such as utilities, repairs, and furnishings.

**A.3.a Utilities Allowance**

The pastor estimates the cost of utilities that he/she will pay in the coming year. The Congregation Council action designates this amount as a utility allowance in advance of salary payment.

- Applicable to clergy whose congregations provide rent-free use of a parsonage or a rental allowance is paid as part of compensation.
- Applicable only when clergy pays utilities.
- Note: Clergy who own their own home and receive a housing allowance designation should include expenses for utilities as part of the housing allowance.

Utilities Allowance \$ \_\_\_\_\_

(Carry to page 3, A.3.a Utilities Allowance)

**A.3.b Furnishings Allowance**

The pastor estimates the expense for furnishings that he/she will incur during the coming year. The Congregation Council action designates this amount as a furnishings allowance in advance of salary payment.

- Applicable to clergy whose congregations provide rent-free use of a parsonage or a rental allowance is paid as part of compensation.
- Note: Clergy who own their home and receive a housing allowance designation should include purchases for furnishings as part of the housing allowance.

Furnishings Allowance \$ \_\_\_\_\_  
 (Carry to page 3, A3b Furnishings Allowance)

### A.3.c Housing Equity Contribution

When a parsonage is furnished rent-free as part of the pastor’s compensation, it must be remembered that the pastor does not have the opportunity to build equity from the property appreciation, as do homeowners. The previous possibility of establishing a Housing Equity Allowance Agreement as a Non-Qualified Deferred Compensation Plan is no longer allowed under Internal Revenue Code, Section 409A. The alternative is to have the congregation make additional contributions to the ELCA Board of Pensions Retirement Account as Housing Equity Contributions (which are also restricted).

Housing equity contributions to the ELCA Retirement Plan are not taxed at the time they are contributed. These contributions are eligible to be withdrawn at any time and are designated as housing allowance when withdrawn. However, when clergy requests a withdrawal, they must justify to the IRS how much may be excluded as housing allowance, based on §107 tax code limits. If they cannot justify the entire withdrawal as eligible for housing allowance, they will be subject to income tax on the difference and, if under age 59 1/2, also subject to an IRS early withdrawal penalty.

If you have questions about this information, please contact the Board of Pensions Service Center at (800) 352-2876, email the Board of Pensions at <[mail@elcabop.org](mailto:mail@elcabop.org)>, or visit their website at <[www.elcabop.org](http://www.elcabop.org)>.

Equity Contribution \$ \_\_\_\_\_  
 (Carry to page 3, A3c Housing Equity Contribution)

## **B. ELCA PENSION AND OTHER BENEFITS**

ELCA congregations provide pension and other benefits according to agreements made at the time of calling their pastor. One option for ELCA congregations is the ELCA Pension and Other Benefit Plan. An ELCA congregation may become a “Participating Employer” and sponsor any of its “Eligible Employees” as a “Sponsored Member” in the Pension and Other Benefits Plan. The determination regarding which of its Eligible Employees it shall sponsor shall be solely within the discretion of the Participating Employer congregation.

For a Participating Employer to sponsor Eligible Employees as a Sponsored Member they must be enrolled as a member in each of the following plans, which together comprise the ELCA Pension and Other Benefits Plan:

- Regular Pension Plan
- ELCA Medical and Dental Benefits Plan
- ELCA Disability Benefits Plan
- ELCA Survivor Benefits

### B.1 ELCA Pension Contribution

Participating Employers, on behalf of their Sponsored Member employees, contribute between 10% and 12% of defined compensation depending on the Sponsored Member’s attained age on December 31, 1987. (See table below) Congregations are encouraged by Synod Assembly action to use a contribution rate of 12% for all Sponsored Members. Any additional contribution beyond the minimum required contribution rate may be deposited in the ELCA Regular Pension Plan or in the

ELCA Optional Pension Plan. In deciding whether to make additional contributions to either of these two plans, the congregation should contact the ELCA Board of Pensions (1-800-352-2876) for detailed information. Use Appendix C to calculate Defined Compensation or use the ELCA Board of Pensions Internet site <[www.elcabop.org](http://www.elcabop.org)>.

**ELCA PENSION CONTRIBUTION RATES - 2010**

<u>Attained Age on 12/31/87 if enrolled continuously from 12/31/87</u>	<u>Minimum Required Contribution Rate</u>	<u>Recommended Contribution Rate</u>
55 or older	12%	12%
45 through 54	11%	12%
Under 45	10%	12%
All Other Members		
Enrolled after 1/1/88	10%	12%
Defined Compensation (Appendix C)		\$ _____
Pension Contribution Rate		_____ %
Pension Contribution (Carry to page 3, B.1. Pension Contribution)		\$ _____

**B.2 ELCA Medical and Dental Insurance**

Contributions for the Medical and Dental Benefits Plan are a percentage of Defined Compensation. Each year, the Board of Pensions sets the contribution rate and minimum – maximum contribution amounts based upon projected benefit payments on behalf of plan members.

Sponsored members and/or their spouses and children who are eligible for medical benefits coverage through a spouse's employer or through a former employer may waive ELCA Medical and Dental Insurance coverage, while continuing to participate in the ELCA Regular Pension Plan, ELCA Disability Benefits Plan, and the ELCA Survivor Benefits Plan. Beginning in 2001 the contribution rate for waiver of coverage has been eliminated. Members and their families who waived coverage are able to re-enter the ELCA Medical and Dental Plan without a waiting period for pre-existing conditions.

The types of coverage elected will depend upon your pastor's dependent coverage needs and the contribution rates vary accordingly.

**ELCA MEDICAL AND DENTAL CONTRIBUTION RATES 2010**  
**FOR THE LOWER SUSQUEHANNA SYNOD:**

Coverage	Contribution Rate (% of Def. Comp.)	Minimum Yearly	Maximum Yearly
Member Only	12.60%	\$5,928	\$8,004
Member/Spouse	22.10%	\$10,368	\$14,016
Member/Children	22.10%	\$10,368	\$14,016
Member/Spouse/Children	31.50%	\$14,808	\$20,028
Coverage Waived	0%	--	--

Defined Compensation (Appendix C) \$ \_\_\_\_\_

Medical and Dental Contribution Rate \$ \_\_\_\_\_

Medical and Dental Insurance Contribution \$ \_\_\_\_\_  
 (Subject to the minimums and maximums)  
 (Carry to page 3, B2 ELCA Medical & Dental Insurance)

**B.3.a ELCA Disability, Survivor Benefits and Administrative Expense**

Your pastor has Disability Insurance as a member of the ELCA Pension and Other Benefits Plan. The ELCA Disability Plan will pay 66 2/3% of defined compensation less any social security and worker's compensation disability benefits received.

As part of the plan, the parish will provide full defined compensation--including Social Security tax allowance, and housing allowance (see Appendix C)--for the first two months of disability on a self-insured basis. The parish also is expected to pay the medical, dental, and survivors insurance contributions during the first two months of disability.

The ELCA Survivor Benefits Plan provides for a lump sum life insurance program. Coverage is based on defined compensation and age factor, with a maximum benefit of \$50,000, minimum benefit of \$6,000.

**DISABILITY, SURVIVOR BENEFITS & ADMINISTRATIVE EXPENSE RATES 2010:**

<u>Benefits Plan</u>	<u>Contribution Rate</u> <u>% of Def. Comp.</u>
Disability	2.60%
Survivor	0.0%
Administration and Retiree Support	<u>0.7%</u>
Total	<u>3.30%</u>

Defined Compensation (Appendix C) \$ \_\_\_\_\_

Disability, Survivor and Administrative Rate 3.30%

Disability, Survivor and Administrative Contribution \$ \_\_\_\_\_  
 (Carry to Page 3, B.3.a ELCA Disability, Survivor Benefits and Administrative Expense)

**B.3.b Other Insurance or Benefits**

Disability Insurance Supplement

The parish should evaluate the need to provide additional supplemental disability coverage and the advisability of insuring its self-insured obligation. This coverage would be obtained apart from the ELCA plan.

Disability Insurance Supplement Premium \$ \_\_\_\_\_  
 (Carry to page 3, B.3.b Other Insurance Benefits)

Medical and Dental Expense Reimbursement

The ELCA Medical and Dental Benefit Plan contains cost sharing provisions. These provisions are too numerous and detailed to describe here; however, the parish and pastor should review the pastor's exposure to out-of-pocket medical and dental expenses and consider some form of reimbursement for these expenses; such as a congregational medical and dental expense reimbursement plan. Please see Appendix F, page 21 for information about establishing a Flexible Spending Account for the pastor.

Medical and Dental Reimbursement \$ \_\_\_\_\_  
 (Carry to page 3, B3b Other Insurance Benefits)

Member Pre-Tax Contribution

Contributions made as a Member Pre-Tax Contribution on behalf of the pastor are not taxable for Federal Income Tax purposes in the year made, but are taxable in the year funds are withdrawn, e.g. in retirement. Additional contributions up to the amount permissible by the Internal Revenue Service may be made to the Board of Pensions and/or other approved depositories. The IRS maximum annual contribution limit for additional member contributions is \$16,500 plus an additional \$5,500 for those age 50 and older.

If you have questions about this information, please contact the Board of Pensions Service Center at (800) 352-2876, email the Board of Pensions at <[mail@elcabop.org](mailto:mail@elcabop.org)>, or visit their website at <[www.elcabop.org](http://www.elcabop.org)>.

Member Pre-Tax Contribution \$ \_\_\_\_\_  
(Carry to page 3, B3b Other Insurance Benefits)

Individual Retirement Account (IRA)

Contributions by individuals to the various types of Individual Retirement Accounts may be made in addition to your congregation’s ELCA pension contribution. Owning an IRA is desirable as a means of accumulating retirement savings and for receiving a tax deferral on accumulated earnings. Because of the many changes to IRAs in recent years, we urge that you keep up-to-date through competent publications or consulting a tax attorney or CPA.

Individual Retirement Account \$ \_\_\_\_\_  
(Carry to page 3, B3b Other Insurance Benefits)

**C. AGREEMENT**

C.1 Vacation

The need for an annual vacation is self-evident. A pastor is frequently under much stress in his/her vocation and needs time away. The standard within our synod is to grant a minimum vacation of one month or four weeks, including four Sundays. The congregation should consider granting additional vacation time based on the length of service in the ministry. The length of vacation time, the number of Sundays, and when vacation time is to be taken are all matters that need to be discussed openly with your pastor and should be considered an important part of his/her compensation.

Further, a minimum of one day off each week is a necessity. After discussing with your pastor, note the agreement in the space below.

The vacation agreement with our pastor is as follows:

Vacation of \_\_\_\_\_ weeks per year, including \_\_\_\_\_ Sundays.

C.2 Continuing Education Time

The ELCA (1997 Assembly Action – “Life-Long Learning and Development for Faithful Leaders”) recommends that all pastors participate in a minimum of fifty (50) hours of continuing education annually. Two (2) weeks of continuing education time (including Sundays) are provided. Such activities are geared to strengthen and enhance the pastor’s ministry and are not intended or considered to be vacations. Continuing education time is understood to incorporate a holistic and systematic approach to life-long learning and development including but not limited to “spiritual disciplines, habits of personal study, regular worship, self care, involvement in the wider community, participation in intentional colleague groups, and peer review as appropriate for personal and vocational development.” (ELCA document Life-“Long Learning and Development for Faithful Leaders” Appendix C.)

### C.3 Sick Leave

The pastor should be compensated for days of work missed due to illness as mutually agreed upon in advance.

### C.4 Parental Leave

A specific Parental Leave Plan for pastors should be carefully drafted. This plan should include at least six weeks with full salary, housing, and benefits. The number of weeks of leave before and after the birth of a child should be specified in advance. Any other specific conditions should be clearly defined in a written document.

### C.5 Sabbatical Leave

Congregations are encouraged to grant a sabbatical leave to their pastor every seven years of service in that parish. This leave is granted to provide an opportunity for the pastor to take an extended period of time for study, spiritual growth, skill development, research, and experimentation all for the purpose of enrichment for continued service in the church.

This leave would be granted for three months, with full pay, following each seven years of service in the same parish. After this sabbatical the pastor will remain in his/her parish for at least one year.

Arrangements for pastoral coverage of the congregation during the sabbatical will be made by both the pastor and the Congregation Council and shall be satisfactorily completed prior to the beginning of the sabbatical leave.

### C.6 Holidays

Time away from the parish must be made available in observance of recognized holidays. How many days and when they are observed must be mutually agreed to in advance to accommodate the needs of both the parish and the pastor.

## **D. EXPENSES**

A church is treated like any other organization by the Internal Revenue Service for the purpose of reimbursements to its minister(s) and church employees for expenses incurred while conducting church business. Reimbursements for business expenses are not included in gross income if the church's reimbursing arrangement is considered an "accountable plan." Alternatively, if the church reimburses business expenses under a "non-accountable plan," then the reimbursements are included in gross income and in the case of lay employees included in the employee's wages subject to FICA and income tax withholding.

An "accountable plan" is one that has a business connection, requires the individual to substantiate expenses (receipts, other documentation), and requires the return of any excess reimbursement. The substantiation requirement is met by having the reimbursed individual submit sufficient information to the church that identifies the specific business nature of each individual expense. It is not sufficient merely to aggregate expenses in broad categories such as "travel" or to report individual expenses through the use of vague, non-descriptive terms such as "miscellaneous business expenses." For more information, please check with the IRS, one of the resources listed on page 15 of this manual, or consult with your tax advisor.

### D.1 Automobile Expenses

Probably the most common business expense is the reimbursement for automobile business mileage. There are three options available:

- Where extensive driving is required, a parish owned or leased car may be the most economical approach. The personal use portion is included as wages subject to income tax and Social Security.
- Accountable reimbursement plan based on the actual number of miles driven multiplied by the IRS per mile rate.
- A flat rate, regardless of mileage, that requires no substantiation, could be paid. This, however, constitutes a fully taxable "non-accountable plan," for income tax and Social Security Tax purposes.

Generally, the amount of per mile reimbursement that a church pays - if less than or equal to the IRS rate - is treated as being substantiated and as paid under an accountable plan, providing that the employee documents the time, place, and business purpose of the reimbursement. If your congregation provides an owned or leased car or pays a flat rate that requires no substantiation, we urge that you become knowledgeable if the IRS rules through competent tax publications or consult a tax attorney or CPA.

Enter Total Automobile Expenses \$\_\_\_\_\_  
(Carry to page 3, D.1. Automobile Expenses)

#### D.2 Other Professional Expenses

Several of the most frequent expenses of Other Professional Expenses are travel expenses (lodging and meals, etc.), books and subscriptions, continuing education, vestments, and professional dues. There may be additional professional expenses in your parish. This matter should be discussed with your pastor.

#### D.3 Assembly/Conference Expenses

Your pastor's attendance at Synod Assembly and conference meetings is an expense of the congregation. Attendance at the assembly of this synod is constitutionally mandated and expenses for registration, lodging, meals, transportation and other expenses are the responsibility of the congregation. The congregation is to support attendance at conference meetings by payment of registration fees and other expenses. Discuss with your pastor his/her anticipated expenses in connection with assemblies and conference meetings in the coming year.

Enter the amount of the allowance for assembly and  
conference expenses here. \$\_\_\_\_\_  
(Carry to page 3, D3 Expenses for official meeting of the synod)

#### D.4 Continuing Education Funds

The ELCA recommends that all pastors participate in a minimum of fifty (50) hours of continuing education annually. Two (2) weeks of continuing education time (including Sundays) are provided. Such activities are intended to improve ministry and are not considered vacations. The best way to encourage your pastor's continuing growth is to provide the time (C.2.) and money (D.4.) that make continuing education activities possible. The pastor and the congregation should put aside funds in a special account for continuing education. The congregation's share is \$700 or more per year with the pastor contributing \$300 annually.

Enter annual continuing education allowance \$\_\_\_\_\_  
(Carry to page 3, D4 Continuing Education)

#### D.5 Books/Periodical Expenses

Your congregation may choose to provide a reimbursement for the purchase of books or subscription to periodicals, enabling the pastor to keep abreast of developments within the church.

Enter amount of book/periodical expenses \$\_\_\_\_\_

(Carry to page 3, D.5. Other)

D.6 Pastoral Supply Rates (Effective 1/1/09)

Once Service:	\$110.00
Two Services:	\$135.00
Three or More Services:	\$160.00

Add \$25.00 for each additional service (*i.e.* more than three) Saturday evening and Sunday morning service. For example, four Sunday morning services are \$185.00. Also add \$60.00 for each additional weekend service other than Sunday morning (*i.e.* on Saturday evening or Sunday evening). For example, one Saturday evening and two Sunday morning services are \$220.00 (\$160.00 for the three services plus \$60.00 for the Saturday evening service).

The above schedule applies to Saturday evening, Sunday morning, Sunday evening, weekday and weekday evening services. For example, a single Maundy Thursday evening service is \$110.00; a single midweek Wednesday morning service is \$110.00; a single Sunday evening service is \$110.00.

The mileage reimbursement for each round trip is at the prevailing IRS rate. This figure is available from the Lower Susquehanna Synod Treasurer's Office, 1800-692-7282 ext. 107

### **RESOURCES**

Church and Clergy Tax Guide (2010 Edition), Richard R. Hammar, Christian Ministry Resources, Telephone 1.800.222.1840, Website <[www.ChurchLawToday.com](http://www.ChurchLawToday.com)>.

"Church Law and Tax Report" - A bimonthly review of legal and tax developments affecting ministers and churches. Edited by Richard R. Hammar, Christian Ministry Resources, Telephone 1.800.222.1840, Website <[www.ChurchLawToday.com](http://www.ChurchLawToday.com)>.

Compensation Planning - A Guidebook for Lay Leaders of the ELCA for Planning Compensation for Rostered Leaders: Pastors, AiMs, Deaconesses and Diaconal Ministers. (DS 69-2322, revised Dec. 1994) Telephone 1.800.328.4648 Augsburg Fortress Distribution Service.

ELCA Document - "Life-Long Learning and Development for Faithful Leaders," 1997 ELCA Assembly. <[http://www.elca.org/leadership/resources/pdf/life\\_long\\_pdf](http://www.elca.org/leadership/resources/pdf/life_long_pdf)>.

IRS Publication 505 - Tax Withholding and Estimated Tax (Rev. March 2009 - available to download from: <[www.irs.gov/pub/irs-pdf/p505.pdf](http://www.irs.gov/pub/irs-pdf/p505.pdf)>).

IRS Publication 517 - Social Security and Other Information for Members of the Clergy and Religious Workers, (available to download from: <[www.irs.gov/pub/irs-pdf/p517.pdf](http://www.irs.gov/pub/irs-pdf/p517.pdf)>).

Clergy Renewal: The Alban Guide to Sabbatical Planning, A. Richard Bullock and Richard J. Bruesehoff, Alban Institute Publication AL214, \$20.00. The Alban Institute, 2121 Cooperative Way, Suite 100, Herndon, VA 20171, Telephone 1.800.486.1318, Website: <[www.alban.org](http://www.alban.org)>.

Zondervan 2010 Minister's Tax and Financial Guide, Dan Busby CPA; Zondervan, Grand Rapids, MI. <[www.Zondervan.com](http://www.Zondervan.com)>

Minister's Guide for Income Tax, Conrad Teitell. Available from Board of Pensions. ELCA Telephone 1-800-352-2876.

APPENDIX A

*[The following forms may be utilized in developing a housing allowance for the pastor, and can be adapted for Utility and/or Furnishing Allowance ]*

PASTOR'S ESTIMATE OF EXPENSES TO PROVIDE A HOME

TO: *[Name of Congregation]*

FROM: *[Name of Pastor]*

DATE:

SUBJECT: Housing (Utility and/or Furnishing) Allowance for the Calendar year 200\_\_.

The amounts set forth below are the amounts I expect to spend during the period indicated above to rent or otherwise provide a home for my family and me.

- |   |          |
|---|----------|
| 1. Rent expense to provide a home   | \$ _____ |
| 2. Expenses toward the purchase of a home (down payment, settlement costs, mortgage payments of principal and interest) | \$ _____ |
| 3. Garage rental (if not included above)  | \$ _____ |
| 4. Utilities (gas, electricity, telephone, water, sewer, fuel oil, refuse removal, firewood, cable)                     | \$ _____ |
| 5. Insurance (homeowner, fire, extended coverage, liability, contents, flood)   | \$ _____ |
| 6. Repairs and maintenance (lawn mowing, snow removal, payments to plumbers, electricians, etc.)                        | \$ _____ |
| 7. Furnishings and improvements   | \$ _____ |
| 8. Real estate taxes (County, City/Township, School)  | \$ _____ |
| 9. Other housing expense incurred to provide a home (attach a itemized list)  | \$ _____ |
| Total   | \$ _____ |

\_\_\_\_\_  
Pastor's Signature

APPENDIX A

**CONTINUED**

CONGREGATION COUNCIL ACTION  
ON  
HOUSING (UTILITY and/or FURNISHING) ALLOWANCE

Whereas, the Internal Revenue Code (section 107) provides that ordained ministers of the Gospel who rent or own their homes exclude from Federal Income Tax that portion of gross income used to rent or provide a home; and

Whereas, to take advantage of such exclusion, the congregation must designate an allowance paid to the pastor as part of compensation; and

Whereas, the Internal Revenue Code only permits housing allowance designations to be effective from the date of enactment (enacted prospectively); and

Whereas, the Congregation Council, has reviewed and gave consideration to the pastor's estimate of expenses to provide a home for the calendar year 200\_\_; therefore, it is hereby

Resolved, that the total compensation paid to the Rev. \_\_\_\_\_ for the calendar year 200\_\_, shall be \$\_\_\_\_\_, of which \$\_\_\_\_\_ is hereby designated to be a housing (utility and/or furnishing) allowance pursuant to section 107 of the Internal Revenue Code; and it is further

Resolved, that the designation of \$\_\_\_\_\_ as a housing (utility and/or furnishing) allowance shall apply to calendar year 200\_\_ and all future years unless otherwise provided.

---

The above resolution was duly adopted by the Congregation Council of \_\_\_\_\_ Lutheran Church at a regularly scheduled meeting held on December \_\_, 200\_\_, a quorum being present.

---

(Secretary Signature)

NOTIFICATION OF HOUSING ALLOWANCE  
BY CONGREGATION

(Date) \_\_\_\_\_

Dear Pastor \_\_\_\_\_:

This is to advise you that at a meeting of the Congregation Council held on \_\_\_\_\_, 200\_\_, a housing allowance for the year 200\_\_, was designated in the amount of \$\_\_\_\_\_. Accordingly, \$\_\_\_\_\_ of the total compensation payable to you during the year 200\_\_, will constitute housing allowance and \$\_\_\_\_\_ will constitute "salary" <sup>1</sup>

Sincerely yours,

Secretary of Congregation Council  
\_\_\_\_\_ Lutheran Church

1.

As interpreted by the Internal Revenue Code comprises base salary and social security allowance.

---

NOTIFICATION OF UTILITIES AND/OR FURNISHINGS ALLOWANCE  
BY CONGREGATION

(Date) \_\_\_\_\_

Dear Pastor \_\_\_\_\_:

This is to advise you that at a meeting of the Congregation Council held on \_\_\_\_\_, 200\_\_, a utilities and/or furnishings allowance for the year 200\_\_, was designated in the amount of \$\_\_\_\_\_. Accordingly, \$\_\_\_\_\_ of the total compensation payable to you during the year 200\_\_, will constitute utilities/furnishings allowance and \$\_\_\_\_\_ will constitute "salary" <sup>1</sup>

Sincerely yours,

Secretary of Congregation Council  
\_\_\_\_\_ Lutheran Church

1. As interpreted by the Internal Revenue Code comprises base salary and social security allowance. The ELCA Board of Pensions Internet site now provides an Annual Defined Compensation Calculator as well as an Annual and Monthly Contribution Calculator. To access the Defined Compensation Calculator go to [www.elcabop.org/Home/Calculators/DefinedCompensation.aspx](http://www.elcabop.org/Home/Calculators/DefinedCompensation.aspx), and to access the Contribution Amounts Calculator go to [www.elcabop.org/Home/Calculators/ContributionAmounts.aspx](http://www.elcabop.org/Home/Calculators/ContributionAmounts.aspx).

**APPENDIX B**

**DETERMINATION OF ANNUAL DEFINED COMPENSATION**  
for the  
ELCA Pension and Other Benefit Program

Determination of Annual Defined Compensation:

1.	Annual Base Salary: (Before Reduction of Salary for TSA)	\$ _____
	Clergy Social Security Tax Allowance	\$ _____
	<b><u>Total Cash Salary</u></b>	<b>\$ _____</b>
2.	Housing: Housing Allowance OR 30% of Total Cash Salary if parsonage or other housing is provided	\$ _____
3.	Household Furnishings and Utilities Allowance (If Paid Directly to Clergy when a parsonage is provided)	\$ _____
	<b><u>ANNUAL DEFINED COMPENSATION</u></b>	<b>\$ _____</b>

Annual Defined Compensation should include:

- Annual base salary
- Clergy Social Security Tax Allowance, if provided
- Housing Allowance (cash or parsonage)
- Furnishings and/or utilities allowance, if the congregation pays them directly to the pastor
- Additional tax-sheltered annuity (TSA) contributions made through a voluntary salary reduction agreement between the pastor and the congregation (includes tax-sheltered contributions made to financial institutions other than the Board of Pensions)

Annual Defined Compensation should not include:

- Utilities paid directly by the congregation to the utility company
- Housing Equity contributions made by the congregation to the optional Pension Plan or to another financial institution in addition to salary
- Additional contributions made to the Regular Pension Plan
- Automobile Allowance
- Book Allowance
- Continuing Education Allowance

## APPENDIX C

### **RATIONALE FOR RECOMMENDATIONS ON 2010 COMPENSATION AND BENEFITS FOR ROSTERED PERSONS OF THE LOWER SUSQUEHANNA SYNOD**

Frequently, congregations look to a synod for guidance in developing their compensation and benefits packages. The policy of the Evangelical Lutheran Church in America recognizes that compensation and benefits are in the purview of the congregation. This synod offers these recommendations in an effort to be supportive to congregations as they work through compensation negotiation with the pastor or staff person to come to mutual agreement.

The Synod Assembly has advocated by its adoption of these recommendations basic threshold amounts or minimums below which a congregation should not fall. It is the intention of the Synod Assembly that congregations not compensate any less than the table amounts.

The Compensation and Benefits Committee over the years since the inception of this synod has used the Consumer Price Index (CPI) as a basis for "cost of living" increases. Given the current economic conditions, the committee is recommending either a 2.0% increase or a 1.0% increase, depending upon year of ordination, for 2010 as a "cost of living" factor. This cost of living factor is derived from the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) for All Urban Consumers. The most recent data available at the time of the Committee's recommendation was December 2008. The December 2008 level was 0.7% higher than the December 2007 level. For calendar year 2008, the CPI ranged from a high of 5.7% in July to a low of 0.7% in December. The annualize rate is 4.0%. For 2010, the Committee is suspending any merit/experience factor adjustment per se. However, by applying a 2.0% cost of living increase for years of ordination 2010 through 2004, and a 1.0% cost of living increase for years of ordination 2003 and thereafter, the basic experience differential used in previous years is maintained. Remember that these increases are to be considered **minimum guidelines** for salary.

#### PASTORS

The principal floor provisions or minimums recommended for 2010 are as follows:

1. Minimum Base Salary and Housing Allowance for newly ordained should be at least \$44,840. This represents an increase of 2.0% in the base salary, and an increase in the housing allowance range included from \$13,220 to \$22,030 to \$13,490 to \$22,480 over the 2009 total amount, which was \$43,960. For those with a parsonage provided, the minimum base salary for newly ordained is increased 2.0% from \$30,740 in 2009 to \$31,350 in 2010.
2. Cost of Living Factor of 2% for 2010; 3% for 2009 (an adjustment to maintain the experience differential); 2% for years 2008 through 2004; and 1% for 2003 and each year thereafter. This factor is illustrated in the table of minimum base salary amounts.
3. Housing Allowance is that portion of a pastor's total salary including all costs associated with providing and furnishing a home when a parsonage is not provided. Housing costs have risen rapidly over the years and in many cases compensation increases have not kept pace with housing costs. The Internal Revenue Service gives special tax treatment to that portion of a pastor's salary designated in advance as a housing allowance and spent during the year. Therefore, the pastor should request the congregation council to designate an adequate portion of the total salary package as a housing allowance as a benefit to the pastor. This is not an additional cost to the congregation, and is similar to the housing allowance provided to members of the

armed forces. Congress on May 20, 2002 passed the *Clergy Housing Allowance Clarification Act of 2002*, which provided further guidance for the clergy housing allowance.

The recommended base salary and housing allowance should be considered together as a package with flexibility given to the pastor to designate an adequate amount for the designated housing allowance. The housing allowance should include an adequate amount to provide for a home, utilities, repairs, furnishings and other costs. The Compensation and Benefits Committee has raised the **minimum** housing allowance range to \$13,490 to \$22,480 per year in 2010.

#### **APPENDIX D**

##### **DEBT LOAD OF NEWLY ORDAINED PASTORS**

Many recent ordinands have accumulated debt from tuition and other expenses related to their years of undergraduate and graduate study. Congregational Mutual Ministry Committees are encouraged to be sensitive to this financial burden when discussing the issue of a fair and equitable compensation package for their pastor.

#### **APPENDIX E**

##### **ELCA BOARD OF PENSIONS HEALTH PLAN CHANGES IN 2010.**

The contribution rate structure reflects the geographic cost differences in health care by assigning each synod to one of six rate classes. Class 1 comprises the lowest percentage, with percentage rates increasing for each class through class 6. The rate classes are established using the general level of salaries and the geographic health care cost differences within the synod. For 2010 the Lower Susquehanna Synod remains rate in class 2.

For more information, please contact Member Services, ELCA Board of Pensions. Telephone: 1.800.352.2876, Email <[mail@elcabop.org](mailto:mail@elcabop.org)>, Internet <[www.elcabop.org](http://www.elcabop.org)>

#### **APPENDIX F**

##### **FLEXIBLE SPENDING ACCOUNT**

Many ELCA pastors, rostered laypersons and lay employees of ELCA congregations and organizations are looking for ways to help pay for rising out-of-pocket health care and/or dependent care expenses. One way to help soften the burden of these increasing costs is through flexible spending accounts.

A flexible spending account (FSA) is a type of “cafeteria plan.” With a FSA plan, ELCA congregations and organizations (i.e., employers) can enable their employees to set aside payroll dollars on a pre-tax basis to pay for certain out-of-pocket expenses, including:

1. certain health care expenses that are not paid for or reimbursed under the ELCA Health Benefits Plan or other health coverage, and
2. eligible dependent day care expenses

Individual congregations and organizations can administer an FSA plan. However, congregations and organizations are encouraged to work with an outside company that specializes in these types of plans. Because there are tax implications FSAs should be administered by someone who knows the rules. Confidentiality concerning reimbursements of health claims is also important. You can contact the ELCA Board of Pensions at (800) 352-2876 or < [https://www.elcabop.org/ServiceCenter/Flexible\\_spending\\_account.aspx](https://www.elcabop.org/ServiceCenter/Flexible_spending_account.aspx)> to ask questions about a FSA.

## **APPENDIX G**

### **MINISTERIAL HEALTH AND WELLNESS**

The health and wellness of those who serve this church is a concern of all congregations and institutions. Following its health and wellness initiative, the ELCA, through the Division for Ministry, is creating awareness of spiritual, emotional, interpersonal, vocations, intellectual and physical well-being. The Board of Pension's ministerial health and wellness page offers information and resources to help those who serve this church achieve wholeness at <<https://www.elcabop.org/livewell.aspx>>.

This synod encourages all who serve their church to take care of themselves physically, mentally, spiritually and emotionally and encourages congregations to support their church leaders in this.

## **APPENDIX H**

### **PASTORS' DISCRETIONARY FUND**

#### **TAX IMPLICATIONS**

It is a fairly common practice for a congregation to set aside a sum of money in a discretionary fund and give the pastor the sole authority to distribute money from the fund. In some cases, the pastor has no instructions regarding permissible distributions. In other cases, the congregation establishes guidelines, but these often are oral and may be ambiguous. Many clergy and congregation treasurers are unaware of the potential tax consequences of these arrangements. Therefore, the synod council has requested that the finance committee make known tax consequences related to discretionary funds to the rostered persons and congregations of our synod. The tax consequences of some of the more common arrangements can be illustrated in the following situations.

#### **SITUATION 1**

**The congregation or congregation council has established a discretionary fund giving the pastor full and unrestricted discretion to distribute it.**

To the extent the pastor has the authority to distribute any portion of the discretionary fund for any purpose, including a distribution to him or herself, without any oversight or control by the governing board renders the entire fund being reported as taxable income to the pastor in the year it is funded. This is so even if the pastor in fact does not personally benefit from the fund. The mere fact that the pastor could personally benefit from the fund is enough for the fund to constitute taxable income. The basis for this is the constructive receipt rule, which is set forth in income tax regulation 1.451-2(a):

*"Income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that*

*he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions."*

A discretionary fund constitutes taxable income to a pastor, when the pastor has the authority to "draw upon it at any time" for his or her own personal use. This means that the fund was established without any explicit prohibition against personal distributions.

Congregation member gifts to the fund would not be tax-deductible as charitable contributions since the fund is not subject to the full control of the congregation or its governing board. For a charitable contribution to be tax-deductible, it must be subject to the full control of the congregation or other charity. The IRS stated the rule as follows in an important ruling:

*"The test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes."*

If a congregation sets up a discretionary fund and authorizes a pastor to make distributions from the fund for any purpose without any oversight or control by the congregation, this fundamental test is not met.

### **SITUATION 2**

**The congregation established a discretionary fund giving the pastor discretion to distribute it for any purpose, but the congregation's governing board retains administrative control over the fund.**

Under this scenario the fund would still constitute taxable income to the pastor, but the contributions of congregation members to the fund probably would be tax-deductible as charitable contributions since the congregation's board exercises control over the funds. Board control could be established if the board simply reviewed all distributions to ensure consistency with the congregation's exempt purposes.

### **SITUATION 3**

**The congregation established a discretionary fund giving the pastor discretion to distribute it only for specified purposes (such as relief of the needy) that are consistent with the congregation's exempt purposes. The pastor does not qualify for distributions and in fact is prohibited from making distributions to him or herself. The congregation's governing board retains administrative control over the fund.**

A discretionary fund established by a resolution of a congregation's governing board that absolutely prohibits any distribution of the fund for the pastor's personal use, will avoid the constructive receipt rule and no portion of the fund represents taxable income to the pastor. In the words of the income tax regulations, "*income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions.*"

To avoid the reporting of the entire discretionary fund as taxable income to the pastor, it is essential that the fund be established by means of a congregational or council resolution establishing a discretionary fund policy that absolutely prohibits any use of the fund by the pastor for personal purposes.

A written policy adopted by the congregation or the council will assure that pastors can avoid the constructive receipt of taxable income and donors can be given reasonable assurance of the deductibility of their contributions if a discretionary fund policy satisfies the following conditions:

1. The congregation gives a pastor the discretion to distribute the fund only for specified purposes (such as relief of the needy) that are consistent with the congregation's exempt purposes as set forth in its charter.

2. The congregation policy prohibits the pastor from distributing any portion of the fund for him or herself or any family member.
3. The congregation or its council retains administrative control over the fund to ensure that all distributions further the congregation's exempt purposes.

## **Sample Policy**

Congregation Name  
Discretionary Fund  
Statement of Policy

Adopted by the Congregation (or Congregational Council)  
(Date Adopted)

1. The Congregation (Congregational Council) hereby authorizes the establishment of a checking account with the funds being held in the name of this congregation.
2. This congregation shall acknowledge offerings and other contributions to this fund. Donations from individuals are considered to be tax-deductible as charitable contributions. It is understood that none of the funds received and deposited into the discretionary fund is constructively received for tax purposes by the pastor.
3. The Congregation (Congregational Council) gives the pastor discretion to distribute money from this fund only for needs or projects that are consistent with this congregation's exempt purposes.
4. The pastor is prohibited from using any portion of the fund for personal purposes or making distributions to him or herself or to any family member.
5. The Congregation (Congregational Council) retains administrative control over this fund to ensure that all distributions are consistent with the congregation's exempt purposes.

### **WHAT IS CHARITY?**

Pastors who are authorized to distribute discretionary funds for benevolent purposes must recognize that the IRS interprets the term charity very strictly. More is required than a temporary financial setback or difficulty paying bills. Pastors should keep this important point in mind when making distributions from a discretionary fund. The income tax regulations define charitable to include relief of the poor and distressed or of the underprivileged. The regulations define needy as being a person who lacks the necessities of life, involving physical, mental, or emotional well being, as a result of poverty or temporary distress. Examples of needy persons include a person who is financially impoverished as a result of low income and lack of financial resources, a person who temporarily lacks food or shelter (and the means to provide for it), a person who is the victim of a natural disaster (such as fire or flood), a person who is the victim of a civil disaster (such as civil disturbance), a person who is temporarily not self sufficient as a result of a sudden and severe personal or family crisis (such as a person who is the victim of a crime of violence or who has been physically abused). Treas. Reg. 1.170A-4A(b)(2)(ii)(D).

### **SHOULD RECIPIENTS RECEIVE A 1099?**

In general, a 1099-MISC form is issued only to self-employed workers who are paid compensation. Since most recipients of a pastor's discretionary fund do not perform any services for their distribution, no 1099-MISC is required. IRS Letter Ruling 9314014.