



**FINANCIAL Q&A**

## YOUR FINANCE QUESTIONS

**Q:** Can our pastor use his housing allowance to pay for his cell phone bills?

**A:** Unfortunately, the tax code and regulations do not answer this question, and it has never been addressed by either the IRS or any court. So, a definitive answer is not possible.

In a 1955 ruling, the IRS concluded that telephone expenses are a utility expense to which a housing allowance can be applied. *Letter Ruling 5509169250A*. While this ruling was a private letter ruling that cannot be cited as precedent in other cases, it remains the only instance in which the IRS has addressed the application of housing allowance to telephone expenses.

This ruling makes sense. Section 107 of the tax code provides that the portion of a minister's church compensation that is designated as a housing allowance is not included in computing taxable income (for income tax reporting) to the extent that it is used to pay for housing-related expenses and, for ministers who own or rent their homes, does not exceed their home's annual fair rental value.

There is no requirement that the housing expenses be business related. All that is required is that the expenses be incurred to rent or provide a home. To illustrate, ministers can use a housing allowance to pay for mortgage payments, property insurance, property taxes, electricity, natural gas, and water despite the fact that the vast majority of these expenses are incurred for purely personal reasons having nothing to do with the conduct of the minister's profession. They are exclud-

able not because they are business related but because they are housing related. Under this analysis, a housing allowance could be applied to the expenses incurred in maintaining a local land line telephone so long as reasonably necessary to provide a home.

Clearly, the use of a land line telephone for local calls (the base charge) is indispensable to a minister's home. Therefore, an argument could be made that such telephone expenses are includable in the housing allowance calculation (whether for business or personal use). Such expenses are like electricity expenses—they are reasonably necessary to provide a home, and as a result they are includable in their entirety in the housing allowance calculation despite the fact that a substantial portion of such expenses are not business related. This was the conclusion reached by the IRS in its 1955 ruling.

But, it is far from clear that this same reasoning would apply to cell phones which, unlike all of the other expenses mentioned previously, are mobile and not physically connected to the minister's home.

As a result, applying a housing allowance to a cell phone should be viewed as an aggressive tax position, unsupported by any existing precedent, that should not be adopted without the advice of a tax professional. This is true even for those ministers who use a cell phone exclusively, and do not have a land line telephone in their home.