

Introduction

GCFA Report No. 5, as adopted by the 2016 General Conference, says the following:

“The annual conference or conferences constituting the episcopal area to which the bishop is assigned will be responsible for providing an episcopal residence or housing allowance for the bishop.” (emphasis added)

In anticipation of this change in practice, which now permits an annual conference to provide a housing allowance to its bishops, in lieu of an episcopal residence, GCFA’s legal Services Department consulted with outside legal counsel to determine the best approach to ensure proper tax treatment of any housing allowance payments an annual conference decides to provide. Two options were explored, each taking into account that for federal tax purposes the bishops are treated as employees of the Council of Bishops of The United Methodist Church.

Option 1 - The annual conference can directly pay the allowance to the bishop

While the annual conference would need to be the organization that designates the allowance and complies with the Internal Revenue Service (IRS) rules for such designations, it would not have any reporting requirements to the IRS because a housing allowance does not have to be reported on either a Form W-2 or Form 1099. The IRS rules provides that a church or other qualifying organization is not required to report the housing allowance to the IRS, but may report it in box 14 of the Form W-2. The IRS rules do not even contemplate the reporting of a housing allowance on a Form 1099. In the current situation, the bishops are not employees of the annual conference for tax purposes and so a Form W-2 is not applicable, which means the allowance would not be reported to the IRS by either the annual conference or the Council of Bishops.

Option 2 - The annual conference can pay the allowance directly to the Episcopal Fund, which would then add it to the amounts already being paid to a bishop

The Council of Bishops can report the allowance in box 14 of the Form W-2 issued to the bishop receiving the allowance. The annual conference should simply be considered as making a contribution to the Episcopal Fund in order to provide housing allowances to bishops who are tax employees of the Council of Bishops, and this should be considered a payment consistent with the mission of the annual conference.

Recommendation

Our outside counsel and we would recommend the second option. By having the annual conference send the money for the allowance to the Episcopal Fund, the allowance can be reported to the IRS on the bishop’s Form W-2 prepared by the Council of Bishops. This structure also alleviates a potential problem: the IRS might assert that the allowance is an improper housing allowance payment if it is paid by an organization other than the organization that employs the bishops for tax purposes. The IRS has challenged the favorable tax treatment for housing allowances in certain situations where the allowance is paid by an organization other than the employing organization. Yet another potential problem with the first alternative is that it is not entirely clear that the housing allowance rules allow for payments to be made by an organization other than the organization that is the employer for tax purposes, and avoiding an analysis of whether a bishop could also be considered an employee of the annual conference for tax purposes would seem to be prudent.