

NO.: **IT-141R (Consolidated)**

DATE: See *Bulletin Revisions* section

SUBJECT: INCOME TAX ACT
Clergy Residence Deduction

REFERENCE: Paragraph 8(1)(c) (also subsection 8(10))

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Latest Revisions – ¶s 21 to 24, and Appendix A.

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Bulletin Revisions

Application

This bulletin applies for the 2001 and subsequent taxation years and is a consolidation of the following:

- IT-141R, dated May 4, 2000; and
- subsequent amendments thereto.

For further particulars, see the “Bulletin Revisions” section near the end of this bulletin.

Summary

A person who is employed, or has an office, as a member of the clergy or a religious order or as a regular minister of a religious denomination may be entitled to claim a clergy residence deduction in respect of his or her residence, when calculating the income from that employment or office. **In order to qualify for the deduction, the person must satisfy both the status and function tests discussed below.**

The text of paragraph 8(1)(c) of the *Income Tax Act* is reproduced in Appendix A. The terms in that paragraph are

not interpreted to favour any particular religious denomination or religious organization, and will include persons in different organizations who hold and fulfil functions similar to those of persons in religious organizations where this particular terminology is used.

This bulletin contains general guidelines concerning qualification for the deduction. Many of the guidelines for the status and function tests were provided in decisions of the Tax Court of Canada released in 1999. A brief summary of these decisions is contained in Appendix B. If an organization wants certainty as to how the guidelines apply to its structure and circumstances, it may request an advance income tax ruling. Information Circular 70-6R3 describes the advance income tax ruling process.

Discussion and Interpretation

Status Test

¶ 1. In order to qualify for the clergy residence deduction under paragraph 8(1)(c), the person must be one of the following:

- a **member of the clergy** (see ¶s 3 and 4);
- a member of a **religious order** (see ¶s 8 to 11); or
- a **regular minister** (see ¶s 3 and 5 to 7) of a **religious denomination** (see ¶ 12).

Function Test

¶ 2. In order to qualify for the deduction, a person who has the required status must also be employed in a qualifying function. The person's function must be that he or she is

- in charge of, or **ministering** to (see ¶s 13 and 14), a diocese, parish or **congregation** (see ¶ 15); or
- engaged **exclusively in full-time administrative service** (see ¶s 18 and 19) by **appointment of a religious order or religious denomination** (see ¶ 20).

Member of the Clergy or Regular Minister

¶ 3. Whether a person is a "member of the clergy" or a "regular minister" depends upon the structure and practices of the particular church or religious denomination.

¶ 4. A "member of the clergy" is a person set apart from the other members of the church or religious denomination as a spiritual leader. It is not necessary that the process of appointment be referred to as ordination or that the appointment be by someone higher up in the ecclesiastical hierarchy; it may be done by the congregation itself. It is sufficient that there be a formal or legitimate act of recognition, and it requires a serious and long-term commitment to the ministry. Priests, pastors, ministers, rabbis, imams, commended workers and other persons who have been commended, licensed, commissioned or otherwise formally or legitimately recognized for religious leadership within their religious organization may be members of the clergy.

¶ 5. A "regular minister" is a person who

- is authorized or empowered to perform spiritual duties, conduct religious services, administer sacraments and carry out similar religious functions. Religious functions may include participation in the conduct of religious services, the administration of some of the rituals, ordinances or sacraments, and pastoral responsibilities to specific segments of the religious organization;
- is appointed or recognized by a body or person with the legitimate authority to appoint or ordain ministers on behalf of or within the religious denomination; and
- is in a position or appointment of some permanence.

¶ 6. In the absence of a legitimate appointment or recognition, the mere performance of the duties of a minister will not suffice to constitute a "regular minister".

¶ 7. Deaconesses and deacons, elders, commissioned officers of the Salvation Army, chaplains (including female chaplains in the Roman Catholic church) and cantors may be recognized as regular ministers depending upon the structure and practices of the particular church or religious denomination. This is not an all inclusive list.

Religious Order

¶ 8. The term "religious order" means a group of people bound by the same religious, moral and social regulations and discipline. A religious order may comprise all the members of an organization or only an identifiable group within that organization. For example, a corporation can provide the framework or structure within which an order may operate; however, the corporation itself would not be the order. An order could consist of a group of employees of the corporation who share certain characteristics and goals. A religious order will have an ascertainable faith with tenets and principles and a requirement for their adherence, and its members will be involved in carrying out the religious mission or ministry of the order. This may include evangelism, religious missions, religious education, social outreach, counseling or relief and development. Not every religious organization is a religious order. Whether or not an organization or a group of individuals within an organization is a religious order is a question of fact to be determined on a case by case basis. No factor predominates and each must be assigned its proper weight in the context of all the facts.

¶ 9. Generally, the following characteristics will be indicative of a religious order:

- (a) The purpose of the organization should be primarily religious. It may have other objects within the overall context of that religious purpose such as education, the relief of poverty, or the alleviation of social ills and suffering. A religious order may have objects that go beyond preaching the gospel and prayer and meditation, and extend to works beneficial to humanity such as running hospitals or helping the poor and homeless. For example, amongst the Tax Court of Canada decisions

released in 1999, it was found in *Alemu et al. v. The Queen* (see Appendix B), that Christian Horizons, which operated group homes for exceptional children, and in *Koop et al. v. The Queen* (see Appendix B), that Youth For Christ, which ministered to inner-city youth by running drop-in centres, sports facilities and preaching, both qualified as primarily religious organizations. They qualified because religion permeated both organizations.

- (b) The members must agree to, and in fact adhere to, a strict moral and spiritual regime of self-sacrifice and dedication to the goals of the organization to the detriment of their own material well-being.
- (c) The commitment of the members should be full-time and of a long term nature. It is not essential that the commitment be for life but it is important that it not be short term, temporary or part-time.
- (d) The spiritual and moral discipline and regime under which the members live must be markedly stricter than that to which the lay members of the church are expected to adhere.
- (e) The admission of members must be in accordance with strict standards of spiritual and personal suitability.
- (f) There should generally be a sense of communality.

¶ 10. Religious orders can include interfaith orders, orders that are family oriented and orders that do not require vows of celibacy, poverty and obedience. Nonetheless, such orders do require significant self-sacrifice, a dedication that transcends that of an ordinary churchgoer and an ardent commitment to the cause of the particular order.

¶ 11. A religious order will normally impose restrictions on the outside lifestyle and employment activities in which its members can engage. A religious order will regulate the amount of financial support its members may receive or enjoy from the order, the religious denomination or givings from their broader community. For example, in *Koop et al v. The Queen* (see Appendix B), an organization was found not to be a religious order where its members could set their own level of targeted income, devoted a significant part of their time to raising funds for their own support and were free to earn income from other sources.

Religious Denomination

¶ 12. A “religious denomination” is a group of individuals that is called or identified by the same name and that has a particular system of religious faith or belief. The set of religious beliefs or ideology or practices of the members of a religious denomination will be sufficiently distinct to distinguish the members from society as a whole.

Ministering

¶ 13. “Ministering” is a very broad concept of serving or attending to the needs of a congregation, diocese or parish, or its individual members. This should be looked at within

the context of the religious organization’s practices and expectations. If a person who meets the status test is employed within a congregation, he or she is considered to be ministering to a congregation if he or she is fulfilling a pastoral or ministerial role in the manner requested by that congregation. If a person who meets the status test is employed by a religious organization outside the order or religious denomination, he or she is considered to be ministering to a congregation such as a church, a chaplaincy audience, or a disadvantaged group if he or she is fulfilling a pastoral or ministerial role consistent with the religious ministry of the organization in which such person has status.

¶ 14. Persons who meet the status test who minister on a part-time or assistant basis and those performing specialized ministering satisfy the function test. As long as ministering to congregations is an integral part of their employment responsibilities and expectations, that activity will qualify.

Congregation

¶ 15. A “congregation” is not defined by any particular church structure, by territorial boundaries nor by the number of people gathered in one place. It is an assemblage or gathering of persons to whom a minister provides spiritual counseling, advice, illumination and inspiration. A group of students assembled for academic instruction is not a congregation. Persons who meet the status test do not need to be in charge of a single, fixed congregation. They can serve multiple congregations. Congregations can be of a diverse and fluid makeup and require neither voluntary attendance nor homogeneity of religious belief. Chaplains in hospitals, jails, the armed forces and other such organizations are generally considered to minister to congregations.

Specialized Ministries

¶ 16. Persons who meet the status test performing specialized ministering may satisfy the function test depending on the significance of the ministry in the particular religious denomination. Recognized forms of specialized ministry may include chaplaincies, religious education within a congregation, congregational pastoral responsibilities for music or youth, ethnic focus ministries, ministries with overseas or domestic missions, and ministries to the disadvantaged or disabled. For example, given the prominence of music in the Pentecostal service and, generally, in the method of worship by members of that religious denomination, the role of minister of music assumes an importance in that church that goes far beyond that of an organist or choir master of other churches.

¶ 17. Teaching at an educational institution, whether or not it is a denominational school, college or seminary, is not by itself recognized as ministering to a congregation. However, a person who meets the status test who is otherwise engaged in a recognized and permitted ministry, may also be engaged in teaching without being disqualified for this deduction. For example, a school chaplain may also have some teaching responsibilities or a congregational minister may also take on

teaching responsibilities for his or her religious denomination.

Full-time Administrative Service

¶ 18. “Administrative service” generally describes the functions of determining organizational policies and coordinating various activities of the organization at the management level. It is not limited to the senior level of management of an organization. Performance of specific staff (i.e., support) functions such as accounting, grounds keeping, information technology and clerical work does not qualify as administrative service. A person who meets the status test who is employed in a full-time administrative position is considered to be working exclusively and full-time in a qualifying function even if, in addition to administrative responsibilities, the person also engages in incidental ministering activities that would satisfy the function test. Both the words exclusively and full-time imply that the person does not have some other form of appointment, business or occupation that is in addition to, and impinges upon, the administrative work performed.

¶ 19. Teaching is not considered to be administrative service, whether or not it is at a denominational school, college or seminary. Occasional or incidental teaching will not, however, disqualify a person whose full-time responsibility is qualifying administrative service.

Appointment of a Religious Order or Religious Denomination

¶ 20. A person’s administrative responsibilities must be by appointment of a religious order or a religious denomination. Recommendation or commendation (as distinct from appointment) of a person for administrative responsibilities with another organization does not constitute appointment by the order or denomination that makes the recommendation or commendation. The appointment need not be to employment with the denomination or order. The appointment can be to a position with an entity that is controlled by, and that is an integral part of the denomination. It should be in accordance with the practices and procedures of the particular religious organization. For example, in *Fitch et al. v. The Queen* (see Appendix B), an appointment as President of the Canadian Union College through its Board of Trustees was found to be an appointment by the religious denomination, the Seventh-day Adventist Church. The appointment was considered to be by the religious denomination because the presence of the Seventh-day Adventist Church permeated all aspects of the Canadian Union College, including its values, its appointments, its boards and committees, and its finances. This contrasts with the situation considered in *Kraft et al. v. The Queen* (see Appendix B). In that case, appointment by Intercom, an organization that was not contended to be a religious order, of a regular minister of a religious denomination did not qualify. The minister was commended by his denomination to work with Intercom; however, he was appointed by Intercom. There was insufficient nexus

between his religious denomination and his appointment by Intercom to do administrative work.

Amount of Deduction

¶ 21. Under paragraph 8(1)(c), a person meeting the status and function tests discussed in ¶s 1 and 2 (referred to in the remainder of this bulletin as the “employee”) may deduct a clergy residence deduction. Paragraph 8(1)(c) provides, among other things, that this deduction can never be greater than the amount of the employee’s income for the year from the qualifying office or employment. Subject to this overall limitation, the calculation of the amount of the deduction depends on the employee’s situation.

¶ 22. If the employee is provided with a benefit in respect of the residence or other living accommodation he or she occupies by virtue of the qualifying office or employment, the value of the benefit must be included, under section 6, in the income from that office or employment. The basic amount of the benefit is the fair rental value of the residence or other living accommodation, for the period in the year for which it is so provided. Under subparagraph 8(1)(c)(iii), however, the employee may deduct the total of any amounts that have been included in income for the year for this reason. In other words, the employee benefit for free living accommodation included in income under section 6 may be offset by a clergy residence deduction for the same amount under subparagraph 8(1)(c)(iii). Furthermore, if the section 6 benefit includes amounts in respect of utilities (see the last part of ¶ 23), subparagraph 8(1)(c)(iii) specifically provides that such amounts may be included in the calculation of the employee’s clergy residence deduction.

¶ 23. If the employee is not claiming a clergy residence deduction under subparagraph 8(1)(c)(iii) with respect to a section 6 employment benefit, he or she may instead claim a clergy residence deduction under subparagraph 8(1)(c)(iv). That subparagraph allows a deduction for either of the following:

- (a) the rent and utilities paid by the employee for his or her principal place of residence, or other principal living accommodation, ordinarily occupied by the employee; or
- (b) the fair rental value, including utilities, of such a residence or living accommodation (unfurnished), owned by the employee or by the employee’s spouse or common-law partner.

However, subject to the overall limitation mentioned in ¶ 21, a clergy residence deduction under subparagraph 8(1)(c)(iv) cannot be more than the lesser of two amounts:

- The first amount is the greater of the following:
 - \$1,000 multiplied by the number of months in the year (up to 10) during which the employee meets the status and function tests; and
 - one-third of the employee’s remuneration for the year from the qualifying office or employment.

- The second amount is calculated as
 - the rent paid or fair rental value of the residence or living accommodation, as described in (a) and (b) above, including utilitiesless a reduction for
 - all amounts deducted in respect of the residence or living accommodation in computing any individual's income for the year from an office or employment or from a business (other than the employee's clergy residence deduction), to the extent that such amounts pertain to the period in the year for which the employee is claiming the clergy residence deduction.

The above reduction for amounts deducted in respect of the residence or living accommodation in computing any individual's income from an office or employment or from a business would include, for example, an amount deducted by the employee for an office in the home, or a clergy residence deduction claimed by the employee's spouse, for the relevant period. (In the latter example, the maximum amount of clergy residence deduction that any particular spouse could claim would be subject to the entire calculation in subparagraph 8(1)(c)(iv), which can be determined using the prescribed form mentioned in ¶ 24.)

The above reduction for amounts deducted in respect of the residence or living accommodation in computing any individual's income from an office or employment or from a business would not include a claim for the principal residence exemption, which is used to reduce or eliminate (for tax purposes) a gain on the disposition of a taxpayer's principal residence.

For purposes of paragraph 8(1)(c), "utilities" means amounts expended for services for electricity, heating (e.g., gas), and water and sewer.

¶ 24. Subsection 8(10) of the Act provides that a clergy residence deduction requires that the prescribed form for that deduction be completed, and that it be signed by the employee's employer certifying that the required conditions set out in paragraph 8(1)(c) have been met. The prescribed form for this purpose is Form T1223, *Clergy Residence Deduction*, which can be obtained at any taxation services office or from the Canada Customs and Revenue Agency's Web site at <http://www.cra.gc.ca>.

Appendix A – Paragraph 8(1)(c) of the Act

Section 8: Deductions allowed

(1) In computing a taxpayer's income for a taxation year from an office or employment, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto:

(c) **Clergy residence** – where, in the year, the taxpayer

- (i) is a member of the clergy or of a religious order or a regular minister of a religious denomination, and
- (ii) is
 - (A) in charge of a diocese, parish or congregation,
 - (B) ministering to a diocese, parish or congregation, or
 - (C) engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination,

the amount, not exceeding the taxpayer's remuneration for the year from the office or employment, equal to

- (iii) the total of all amounts including amounts in respect of utilities, included in computing the taxpayer's income for the year under section 6 in respect of the residence or other living accommodation occupied by the taxpayer in the course of, or because of, the taxpayer's office or employment as such a member or minister so in charge of or ministering to a diocese, parish or congregation, or so engaged in such administrative service, or
- (iv) rent and utilities paid by the taxpayer for the taxpayer's principal place of residence (or other principal living accommodation), ordinarily occupied during the year by the taxpayer, or the fair rental value of such a residence (or other living accommodation), including utilities, owned by the taxpayer or the taxpayer's spouse or common-law partner, not exceeding the lesser of
 - (A) the greater of
 - (I) \$1,000 multiplied by the number of months (to a maximum of ten) in the year, during which the taxpayer is a person described in subparagraphs (i) and (ii), and
 - (II) one-third of the taxpayer's remuneration for the year from the office or employment, and
 - (B) the amount, if any, by which
 - (I) the rent paid or the fair rental value of the residence or living accommodation, including utilities
exceeds
 - (II) the total of all amounts each of which is an amount deducted, in connection with the same accommodation or residence, in computing an individual's income for the year from an office or employment or from a business (other than an amount deducted under this paragraph by the taxpayer), to the extent that the amount can reasonably be considered to relate to the period, or a portion of the period, in respect of which an amount is claimed by the taxpayer under this paragraph;

Appendix B – Decisions of the Tax Court of Canada Released in 1999

Austin v. The Queen, 99 DTC 710, [1999] 2 CTC 2270

A credentialed minister of The Pentecostal Assemblies of Canada who was employed on a full-time basis as a minister of music was a regular minister who ministered to a congregation.

McGorman et al. v. The Queen, 99 DTC 699

A missionary employed by the Canadian Baptist Overseas Mission Board to administer a social program in Bolivia was engaged in full-time administrative service by appointment of a religious order.

A member of the Society for International Ministries of Canada (SIM Canada), who worked as an ethnic focus missionary to Somalis in Toronto, was a member of a religious order ministering to a congregation.

Kraft et al. v. The Queen, 99 DTC 693, [1999] 3 CTC 2185

Commended Workers of the Plymouth Brethren were regular ministers of a religious denomination and members of the clergy.

An ordained Baptist minister who was an employee of Outreach Canada, traveled to a large number of churches where he preached, led religious services, and acted as an interim pastor to churches that did not have a pastor, was ministering to a congregation.

An ordained Baptist minister who was the chaplain for three custodial facilities for young offenders was ministering to a congregation.

A member of the clergy employed by International Teams who ministered to a variety of congregations in churches in the Toronto area was ministering to a congregation.

A member of the Baptist clergy employed by Intercom (Intertribal Christian Communications), an organization concerned with the spiritual life of native peoples, was ministering to a congregation.

An appointment by Intercom, which was not contended to be a religious order, of a member of the clergy to full-time administrative service with Intercom was not an appointment by a religious denomination even though the member of the clergy had been commended to Intercom by his denomination.

There was insufficient evidence to conclude that a member of the clergy who was General Director and founder of Intercom and who did some preaching and counseling was ministering to a congregation.

Alemu et al. v. The Queen, 99 DTC 714, [1999] 2 CTC 2245

Employees of Christian Horizons were members of a religious order who were engaged exclusively in full-time administrative service by appointment of the religious order.

A member of the clergy who was minister at large to Christian Horizons was ministering to a congregation.

Fitch et al. v. The Queen, 99 DTC 721, [1999] 2 CTC 2419

An ordained minister of the Seventh-day Adventist Church who was president of Canadian Union College (CUC), a Seventh-day Adventist Bible College, was engaged in full-time administrative service by appointment of the religious denomination.

An ordained minister of the Seventh-day Adventist Church who was a professor of religious studies at CUC was neither ministering to a congregation nor engaged in full-time administrative service.

A recognized minister and church leader in the Church of Christ who was president of Western Christian College was engaged exclusively in full-time administrative service by appointment of the religious denomination, the Church of Christ.

Koop et al. v. The Queen, 99 DTC 707, [1999] 3 CTC 2084

Credentialed members of Youth For Christ who worked among the inner-city youth by providing drop-in centres, sports facilities and preaching the gospel were both ministers and members of a religious order ministering to a congregation.

A member of The Navigators who was a Commended Worker of the Plymouth Brethren was a minister or member of the clergy ministering to a congregation.

Bulletin Revisions

¶s 1, 2, 6, 8, 9, 10, 12, 14, 15, 18, 19, and 20 have not been changed since the issuance of IT-141R on May 4, 2000.

¶s 3, 4, 5, 7, 11, 13, 16, and 17 have not been changed since the issuance of IT-141R on May 4, 2000, except that we have added the word “religious” before “denomination”, as required in these paragraphs for purposes of clarification.
[December 6, 2001]

¶s 21 to 28 have been replaced by new ¶s 21 to 24. These new paragraphs reflect the revised rules for calculating the amount of the clergy residence deduction that may be claimed for the 2001 and subsequent taxation years.
[December 6, 2001]

In Appendix A, paragraph 8(1)(c) as it read for taxation years before 2001 has been replaced by that paragraph as it reads for the 2001 and subsequent taxation years.
[December 6, 2001]

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