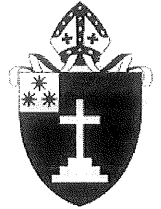


Memorandum

The Anglican Diocese of Nelson



To: Clergy in Ministry-supplied Housing & Wardens of those Parishes
From: The Diocesan Secretary
Date: 28th August 2014
Subject: Clergy Taxation on Housing Provided by the Church

As you will be aware, the legality of the administrative arrangement that had operated with the Inland Revenue since 1957 was recently challenged. The consequence of this challenge has been that the New Zealand Parliament on the 30th June 2014 amended the law and provided for what was the previous administrative arrangement to become part of the New Zealand Tax Law. There were some minor changes.

For your information I enclose a circular from the Inter Church Working Party on Taxation, which sets out the new position that will apply from the 1st April 2015.

One of the changes set out will affect every Parish. The present fixed deduction off the nominal income no longer applies and the deduction figure must be calculated on the actual part of the vicarage or ministry house used wholly or mainly for ministry.

This means that we will have to do an exercise in respect of each house, to determine what that percentage deduction can in fact be. In order that we may make this calculation, we would ask that the wardens of each parish complete the attached certificate for each of the ministry houses the parishes may have and return these certificates to the Anglican Centre as soon as possible.

Until the 31st March 2015 the status quo will apply.

Certificate as to the “business use” of accommodation provided by Parish

We, _____ Vicars Warden

And _____ Peoples Warden of
the Parish of _____ hereby certify for the purposes of “The
Taxation (Annual Rates, Employee Allowances and Remedial Matters) Act
2014” the following

1. That accommodation is provided by the Parish to the Vicar / Priest
Assistant / other position (specify)

At the following address

2. That the person provided with the accommodation

- (i) *Is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and*
- (ii) *Duties are related mainly to the practice, study, teaching or advancement of religious beliefs; and*
- (iii) *Their accommodation is used as an integral part of performing their duties.*

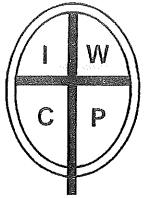
3. The floor area of the whole House is _____square metres

4. The floor areas of the House “wholly or mainly” used for work purposes are

- (i) Office/study _____square metres
- (ii) Other (specify & define use) _____square metres

Vicars Warden

Peoples Warden



INTER CHURCH WORKING PARTY ON TAXATION

PO Box 12-287, Wellington, New Zealand. Anglican House, 32 Mulgrave Street, Wellington.
Phone 0-4-4739369 Fax 0-4-4739991. Email office@acpb.org.nz

6 August 2014

Dear Church Administrators,

Re: Clergy Taxation on Housing Provided by the Church

The Taxation (Annual Rates, Employee Allowances and Remedial Matters) Act is now law. As you know this includes accommodation provided by Churches to their clergy.

The Act has put on to the statute books the continuation of the long standing administrative practice that the churches have followed since 1957, but with two small variations.

These are as follows:

1. Previously, from 10% of stipend, there was a deduction of 15% to cover that portion of the house which was used for work purposes, e.g. a study/office. That will no longer be the case. Instead, as from 1 April 2015, any deduction must be calculated on a house by house basis, having regard to the area of the house which is used *"wholly or mainly for work purposes related to their duties as a minister"*, with the 10% taxable amount *"apportioned between business use and private use"*.

This will mean: (a) determining the area of the house which qualifies as "business" use and (b) measuring its area as a percentage of the total area of the house. If that apportionment is say 12%, then that percentage will be used instead of the traditional 15%. This apportionment will mean a bit of work, but you have from now until April next year to do the necessary measurements. Please note that, if more than one minister lives in the accommodation, the work related adjustment is to be apportioned equally between them, i.e. 6% each, where two ministers live in the house.

2. A new *"excess rental"* provision is introduced. This is intended to exclude from the "10% of stipend" rule a luxurious home provided by the church, which is over and above that *"reasonably commensurate with the duties of the person as a minister for the location in which they perform their duties"*. In such cases the difference between the actual market rental value of the house provided and the market rental value of an alternative house which meets the *"reasonably commensurate"* test will be fully taxable as part of the ministers remuneration. Hopefully such circumstances will be rare within the environment of the Church.

Although the commencement date for the new law is 1 April 2015, parishes that currently provide a house to clergy which has been rented in the marketplace and who are currently paying PAYE on the actual rent paid can now, until 1 April 2015, can revert back to the 1957 rules, i.e. "10% of stipend less 15%".

In addition, in line with our previous advice, affected parishes/local churches, can claim overpaid tax which was paid after 1 July 2013. This can be done by submitting adjusted returns to the IRD.

Tax refunded in these circumstances will be to the account of the parish/local church, rather than the minister concerned, since it was the parish/local church that funded the extra tax by grossing up the Minister's taxable income. In other words, the net take-home pay of the minister concerned remained the same when the tax payable increased from the traditional position in relation to rented houses provided, following our 14 November 2011 memorandum.

Please note carefully the various dates mentioned in this letter.

To summarise:

1. The 1957 rules, whether the accommodation provided is Church owned or rented by the church, apply until 1 April 2015.
2. From 1 April 2015 the two changes to the 1957 position as set out above come into effect.
3. Parishes/local churches, who have been paying tax on the total rental amount paid on houses rented for clergy, can file adjusted returns seeking a refund on tax payments made after 1 July 2013.

With all good wishes,

Chris Bethwaite
Chair
ICWPT



New Zealand Legislation

Tagged sections/clauses

15 New sections CE 1B to CE 1E inserted

After [section CE 1](#), insert:

“CE 1B General rule: accommodation provided by employers

“*Value of accommodation*

- “(1) The value of accommodation provided to a person is income of the person when it is provided in relation to their employment or service. The value is an amount equal to the market rental value of the accommodation.

“*Value of accommodation allowances*

- “(2) The value of an accommodation allowance provided to a person is income of the person when it is provided in relation to their employment or service. The value is equal to the amount of the allowance paid to the person.

“*Payments and reimbursements*

- “(3) An amount paid for or towards the provision of accommodation for a person, whether as expenditure on account of an employee or as a reimbursement, is income of the person when it is paid in relation to their employment or service.

“*Adjustments to values*

- “(4) The value under subsection (1) may be adjusted as follows:
- “(a) when more than 1 person referred to in that subsection shares in the accommodation provided, the amount may be—
 - “(i) apportioned equally among the number of persons referred to in that subsection who are sharing in the accommodation; or
 - “(ii) if the persons referred to in that subsection who are sharing in the accommodation agree with the person providing the accommodation, apportioned on another reasonable basis;
 - “(b) when the person to whom the accommodation is provided contributes towards their occupation of the accommodation, the amount may be reduced by the amount contributed;
 - “(c) when the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their employment or service, the amount may be apportioned between business use and private use.

“*Adjustments: allowances and amounts paid*

- “(5) Subsection (4)(b) and (c) may apply to adjust the value of an accommodation allowance or an amount paid for or towards the provision of accommodation under subsections (2) and (3).

“*Exceptions*

- “(6) Sections CE 1C and CE 1E override this section.
 “Defined in this Act: accommodation, amount, business, employer, employment, expenditure on account of an employee, income, pay

“CE 1C Exception: overseas accommodation

“*Relevant local rental*

- “(1) Despite section CE 1B(1), if accommodation is provided at or near a work location that is overseas, the value of the accommodation is an amount equal to the relevant market rental value of accommodation in New Zealand. The relevant market rental value is determined taking into account—
- “(a) the location where the person would be likely to work for their employer in New Zealand; and
 - “(b) the equivalent accommodation in New Zealand that the person would be likely to occupy; and

“(c) the average or median market rental value in the vicinity of the location referred to in paragraph (a).

“When overseas rental is less than New Zealand equivalent

“(2) For the purposes of subsection (1), if the value of the accommodation in the overseas location is less than the New Zealand equivalent market rental value, the value that must be used is the value in the overseas location.

“When location in New Zealand is uncertain

“(3) For the purposes of subsection (1)(a), if the location where the person would be likely to work for their employer in New Zealand is uncertain, the relevant market rental value is taken as either the average market rental value or the median market rental value, as applicable, for the whole of New Zealand.

“ Defined in this Act: accommodation, amount, New Zealand

“CE 1D Exception: accommodation provided by Defence Force

“When this section applies

“(1) This section applies for the purposes of section CE 1B(1) when accommodation is provided to a person who is a member of the Defence Force by the Navy, Army, or Air Force, as those terms are defined in the Defence Act 1990.

“Market rental value

“(2) The market rental value of the accommodation is an amount equal to the lesser of—

“(a) the market rental value for the accommodation; and

“(b) the market rent payable for the national New Zealand Defence Force benchmark property for the type of accommodation provided to the person, less the discount applying to the type of accommodation.

“National benchmark properties and discounts

“(3) For the purposes of this section, the Commissioner and the Chief of the Defence Force, in consultation with a registered valuer, must determine—

“(a) the number and location of national benchmark properties;

“(b) the types of accommodation represented by the benchmark properties;

“(c) a market rental value for each type of accommodation in the benchmark properties;

“(d) a discount applying to each type of accommodation in the benchmark properties.

“Three-yearly review

“(4) A determination under subsection (3)(c) and (d) must be reviewed every 3 years. Either the Commissioner or the Chief of the Defence Force may instigate the review.

“ Defined in this Act: accommodation, amount, Commissioner, pay

“CE 1E Exception: accommodation provided to ministers of religion

“Income

“(1) Despite section CE 1B(1) and to the extent described in subsection (2), the value of accommodation that is provided to a person who is a minister of religion is income of the person when the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister.

“Limited amount

“(2) The amount of income for an income year is calculated using the formula—
remuneration × (1 – adjustment) + excess rental.

“Definition of items in formula

“(3) In the formula,—

“(a) **remuneration** is the amount that equals 10% of the remuneration that the person receives for the income year for the performance of their duties as a minister from the religious society or organisation of which they are a minister;

“(b) **adjustment** is the adjustment referred to in subsection (4), and is the part of the amount that is the value of the accommodation for the income year apportioned to work-related use, expressed as a decimal fraction of the total value of the accommodation;

“(c) **excess rental** is the amount that is not less than zero that is the difference between—

- “(i) the market rental value for the income year of the accommodation provided; and the market rental value for the income year of accommodation that is reasonably commensurate with the duties of the person as a minister and for the location in which they perform their duties.
- “(ii)

“Adjustments

- “(4) An adjustment referred to in subsection (3)(b) is as follows:
 - “(a) if the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their duties as a minister, the amount is apportioned between that business use and private use:
 - “(b) if more than 1 person referred to in subsection (1) shares in the accommodation provided, the amount is apportioned equally between them.

“Part-year

- “(5) For the purposes of this section, if accommodation is provided for part of an income year, the reference to income year is read as a reference to the relevant part of the income year.

“Meaning of minister of religion

- “(6) For the purposes of this section, **minister of religion**—
 - “(a) means a person—
 - “(i) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and
 - “(ii) whose duties are related mainly to the practice, study, teaching, or advancement of religious beliefs; and
 - “(iii) whose accommodation is used as an integral part of performing their duties:
 - “(b) does not include a member of a religious society or order referred to in section CW 25 (Value of board for religious society members).

“ Defined in this Act: accommodation, amount, business, income year, minister of religion”.