

The Church of Scotland – Ministries Council

Ministries Finance Committee

Guidance relating to Gifts to Ministers

The purpose of this guide is to offer general guidance to ministers on receiving gifts, with the aim of ensuring good practice and a measure of consistency in treatment across the ministry in the Church.

Please note that neither the Ministries Council, nor Church of Scotland staff, are qualified to deal with individual tax affairs. Ministers are responsible for probity in relation to their own tax affairs. Ministers requiring financial advice should seek help from a qualified professional who is experienced in clergy taxation.

GIFTS FROM CONGREGATIONAL FUNDS

The Regulations for Remuneration and Reimbursement of Parish Ministers, *Edinburgh, 20 May 2015, Session V* clearly state that beyond the stipend paid to them through the Ministries payroll **ministers may not receive any other form of remuneration from their congregation relating to the discharge of their ministerial duties.**

Money taken up from ordinary offerings at public worship is for congregational purposes only.

Can a retirement or leaving gift to a minister come from congregational funds?

It should be noted that the Kirk Session and Financial Board as trustees for the congregation would be acting *ultra vires*, i.e. out-with their powers, if they were simply to dip into congregational funds or assets to make a retirement, leaving or long service gift such as for example a laptop, painting or car to anyone, including a Minister, office bearer or employee. The only exception would be where the gift would be regarded as a token of esteem with a nominal value – a bunch of flowers or book token with as a rule of thumb a value of less than £25.

Beyond this a special collection for that purpose should be organised and proper arrangements should be put in place for the counting and recording of the sums ingathered.

Can a minister accept a ‘thankyou’ payment from a family after conducting a wedding or funeral?

In the case of ministers receiving a stipend, any such payments must be remitted to the congregation. In the case of a non-stipendiary minister, it is recommended that the minister accepts an amount only up to the pulpit supply fee with the balance going to the congregation.

INCOME TAX

Any gifts received in the capacity as Church of Scotland Minister, as distinct from gifts received in a personal capacity, are taxable.

Relevant tax legislation

The basic tax position is that a gift in cash or a gift with money's worth (a gift which can easily be converted into cash) is treated as earnings (under section 62 ITEPA 2003) for tax purposes.

However a gift is not treated as taxable earnings if it is made from an individual (or group of individuals) either:

- on personal grounds (e.g. birthday present) or
- as a mark of personal esteem or appreciation.

Should a minister consider grants received to be a gift?

Lump sum grants made to a minister in order to alleviate hardship peculiar to their own circumstances do not need to be declared to HM Revenue & Customs.

How does a minister declare this income to HM Revenue & Customs?

HM Revenue & Customs require declaration of any income received as a gift to be made on the Ministers of Religion pages of the Self-assessment tax return, under box 10. The total value of any gifts received because of work as a Church of Scotland minister should be reported in this manner. See above for what should not be included.

Can a congregation 'gift' a minister the computer he/she has been using for parish duties on translation, retirement or demission?

Any gift of the computer equipment that a minister has been using for parish duties, purchased by the congregation, to the minister on translation, retirement or demission would be at the congregation's discretion. Congregations do have the right to say that they would like to keep the computer equipment for any new minister to the charge. Parish Ministers will have to be aware of data protection issues in relation to information stored on the computer. Please see information on the Church of Scotland website for further information on data protection rules;

http://www.churchofscotland.org.uk/resources/subjects/law_circulars#data_protection

It should be noted that with regard to computers and other assets which are owned by employers and provided to employees, or office holders in the case of parish ministers, there can be a taxable benefit in kind charge if the asset is used for private purposes. The earnings charge would be 20% of

the market value of the asset when it is first provided to the minister. In practice however, if private use of the asset by the minister or members of his or her household is insignificant, then no benefit charge requires to be computed.

If the minister is taking the computer which was purchased largely for pastoral duties, for personal use in the future, then there would be a potential tax charge arising.

The calculation of any potential tax charge on transfer of the equipment to the minister on translation or retirement depends on whether a benefit in kind was incurred on the asset originally being available for private use as follows;

If there was no private use, use the market value at the date of transfer of ownership, to compute the benefit.

If there has been a previous private use charge, use the market value at the date the asset was first provided, if higher.

The market value (i.e. what you could sell the asset for) would have to be declared on your self assessment tax return. You should use this value whether or not you actually sell the asset.

Where a minister receives a computer from his *previous* congregation on translation to a new one, he/ she would be deemed to have received an asset. For the purposes of their *new* parish they would be treated as using their own computer for the duties and *may* be able to claim expenses in respect of the business use of this asset as appropriate. This would be in the way of capital allowances on the market value of the asset.

WHEN IS A GIFT NOT A GIFT?

When accepting a gift or hospitality ministers should bear in mind;

- When is a gift appropriate or inappropriate?
- When is a gift a bribe?

Under what circumstances could a gift be considered a bribe?

If a parish minister, in connection with the work of the congregation, receives a gift in cash or kind given to them personally (as opposed to a charitable donation for the congregation), before accepting it, he/she should give careful consideration as to whether it is an expression of personal appreciation or whether it could be intended as an inducement to place 'business' with the donor or indeed be a reward for 'past business'. If there is good reason to suspect that something may be expected in return, the gift should be declined.

The general principle to consider is whether there is an expectation that the relationship between the donor and the parish minister will be influenced.

It is not acceptable for a minister to:

- accept payment, gift or hospitality from a third party that they know or suspect is offered with the expectation that it will obtain a business advantage for them;

What regulations should I be aware of and what action does my congregation need to take?

Parish Ministers should make themselves aware of the Bribery Act 2010.

Kirk Sessions should be working under clear guidelines to enable all employees, office holders and volunteers of the church to handle both the giving and receiving of gifts, hospitality and expenses.

Information on the Bribery Act 2010 and a draft bribery and procurement policy as produced by the Church of Scotland Law Department is available on the Church of Scotland website.

(http://www.churchofscotland.org.uk/resources/subjects/law_circulars)

Is a register of gifts required to be kept?

It is good practice that all offers of gifts with a value in excess of £25, whether accepted or not, should be reported to the Kirk Session and recorded in a register maintained for this purpose.