

SUBTITLE A. INCOME TAXES
CHAPTER 1. NORMAL TAXES AND SURTAXES
SUBCHAPTER D. DEFERRED COMPENSATION, ETC.
PART I. PENSION, PROFIT-SHARING, STOCK BONUS PLANS, ETC.
SUBPART B. SPECIAL RULES

IRC Sec. 414

Sec. 414. Definitions and special rules [Caution: See prospective amendment note below.].

(a) Service for predecessor employer. For purposes of this part--

(1) in any case in which the employer maintains a plan of a predecessor employer, service for such predecessor shall be treated as service for the employer, and

(2) in any case in which the employer maintains a plan which is not the plan maintained by a predecessor employer, service for such predecessor shall, to the extent provided in regulations prescribed by the Secretary, be treated as service for the employer.

(e) Church plan.

(1) In general. For purposes of this part [[26 USCS §§ 401](#) et seq.], the term "church plan" means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 [[26 USCS § 501](#)].

(2) Certain plans excluded. The term "church plan" does not include a plan--

(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 [[26 USCS § 513](#)]); or

(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

(3) Definitions and other provisions. For purposes of this subsection--

(A) Treatment as church plan. A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

(B) Employee defined. The term employee of a church or a convention or association of churches shall include--

(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 [[26 USCS § 501](#)] and which is controlled by or associated with a church or a convention or association of churches; and

(iii) an individual described in subparagraph (E).

(C) Church treated as employer. A church or a convention or association of churches which is exempt from tax under section 501 [[26 USCS § 501](#)] shall be

deemed the employer of any individual included as an employee under subparagraph (B).

(D) Association with church. An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

(E) Special rule in case of separation from plan. If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan--

(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) [26 USCS § 72(m)(7)]) at the time of such separation from service.

(4) Correction of failure to meet church plan requirements.

(A) In general. If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 [26 USCS § 501] fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

(B) Failure to correct. If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

(C) Correction period defined. The term "correction period" means--

(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default, whichever has the latest ending date.

(5) Special rules for chaplains and self-employed ministers.

(A) Certain ministers may participate. For purposes of this part--

(i) In general. A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister--

(I) is a self-employed individual (within the meaning of section 401(c)(1)(B) [26 USCS § 401(c)(1)(B)], or

(II) is employed by an organization other than an organization which is described in section 501(c)(3) [26 USCS § 501(c)(3)] and with respect to which the minister shares common religious bonds.

(ii) Treatment as employer and employee. For purposes of sections 403(b)(1)(A) and 404(a)(10) [[26 USCS §§ 403\(b\)\(1\)\(A\)](#) and [404\(a\)\(10\)](#)], a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) [[26 USCS § 501\(c\)\(3\)](#)] and exempt from tax under section 501(a) [[26 USCS § 501\(a\)](#)].

(B) Special rules for applying section 403(b) [[26 USCS § 403\(b\)](#)] to self-employed ministers. In the case of a minister described in subparagraph (A)(i)(I)--

(i) the minister's includible compensation under section 403(b)(3) [[26 USCS § 403\(b\)\(3\)](#)] shall be determined by reference to the minister's earned income (within the meaning of section 401(c)(2) [[26 USCS § 401\(c\)\(2\)](#)]) from such ministry rather than the amount of compensation which is received from an employer, and

(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B) [[26 USCS § 401\(c\)\(1\)\(B\)](#)]) with respect to such ministry shall be included for purposes of section 403(b)(4) [[26 USCS § 403\(b\)\(4\)](#)].

(C) Effect on non-denominational plans. If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and in the exercise of such ministry is employed by an employer not otherwise participating in such church plan, then such employer may exclude such minister from being treated as an employee of such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5) [[26 USCS §§ 401\(a\)\(3\)](#), [401\(a\)\(4\)](#), and [401\(a\)\(5\)](#)], as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) [[26 USCS §§ 401\(a\)\(4\)](#), [401\(a\)\(5\)](#), [401\(a\)\(26\)](#), [401\(k\)\(3\)](#), [401\(m\)](#), [403\(b\)\(1\)\(D\)](#)] (including section 403(b)(12) [[26 USCS § 403\(b\)\(12\)](#)]), and 410 [[26 USCS § 410](#)] to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) [[26 USCS § 403\(b\)](#)] or a retirement income account described in section 403(b)(9) [[26 USCS § 403\(b\)\(9\)](#)]). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of, and prevent the abuse of, this subparagraph.

(D) Compensation taken into account only once. If any compensation is taken into account in determining the amount of any contributions made to, or benefits to be provided under, any church plan, such compensation shall not also be taken into account in determining the amount of any contributions made to, or benefits to be provided under, any other stock bonus, pension, profit-sharing, or annuity plan which is not a church plan.

(E) Exclusion. In the case of a contribution to a church plan made on behalf of a minister described in subparagraph (A)(i)(II), such contribution shall not be included in the gross income of the minister to the extent that such contribution would not be so included if the minister was an employee of a church.
