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Notice 14-02

Self-Employment Tax Deduction For Ministers
(July 1, 2014)

During the 2012 Legislative Session there was a major change to Kansas law which provides an exemption for certain non-wage business income, including income properly reported on federal Schedule C and on line 12 of the federal 1040. To prevent a "double exemption" for self-employment income, K.S.A. 79-32,117, the statute which provides for addition and subtraction modifications, was amended to provide that, starting in tax year 2013, there be an "add-back" requirement for self-employment taxes.

Under federal tax law, the income a minister receives is considered wages in some respects and self-employment income in others. It is reported on a W-2 and not a Schedule C but, for employment tax purposes, it is treated as "self-employment" income. As a result a minister has to pay both the employee and employer share of those taxes, just like a business owner. Unlike a business owner, however, a minister does not get the benefit of the non-wage business income exemption for wage income reported on a W-2.

During the 2014 Legislative Session Senate Bill 265 was passed and signed into law. Section 3 of the Bill amends K.S.A. 79-32,117 to address a minister's unique situation. Subsection (b)(xx), which is an addition modification, is amended to read:

> (b) There shall be added to federal adjusted gross income:
> (xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, *to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return*.

The amendment prevents ministers from being taxed on both their wage income and the self-employment tax they paid on that income.

Senate Bill 265 is effective July 1, 2014. However, because the amendment relates to all tax years beginning after December 31, 2012, the amended provision does apply to tax year 2013. As a result, any minister who added back their self-employment taxes from wage income reported on a W-2 on their 2013 income tax return can file an amended return and claim a refund. Amended returns will be accepted immediately.

Please note that the amendment to K.S.A. 79-32,117 found in Senate Bill 265 was later included in House Bill 2143. This House Bill is a reconciliation bill. A reconciliation bill is used when a statute is amended in two or more separate bills. K.S.A. 79-32,117 was included in the reconciliation bill because it was amended by section 3 of Senate Bill 265 and by section 6 of House Bill 2057.

Taxpayer Assistance

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