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Clergy Moving Expenses Q&A

CHANGES DUE TO FEDERAL TAX LAW (ENACTED DECEMBER 2017)

This Q&A has been developed to provide general information for local churches and annual conferences that may have questions about the change in federal tax law concerning moving expense payments. Wespath's Legal department has researched these issues from a tax and employee benefit plan perspective. We also have gathered information from annual conferences in order to address issues clergy, annual conferences and local churches will be facing.

A webinar for conference benefits officers and treasurers was held in late May 2018. Additional communications for clergy, local churches and annual conferences are planned for the remainder of 2018.

None of the information in these materials constitutes tax or legal advice, as Wespath cannot provide such advice to individuals or annual conferences.

1. Q: Did the tax law signed by President Trump in December 2017 change the way moving expense payments for clergy are treated from a tax perspective?

A: Yes. The law changed the way moving expenses are treated for most employees, including (but not uniquely) clergy.

2. Q: How were moving expense payments addressed by the tax law before the changes?

A: Before the changes, amounts provided by the annual conference or local church for moving expenses were not subject to income tax or self-employment taxes ("SECA") if certain conditions were satisfied.

The law excluded from an individual's gross income "any amount received (directly or indirectly) by an individual from an employer as payment for (or a reimbursement of) expenses which would be deductible as moving expenses ... if directly paid or incurred by the individual." (An individual was allowed a tax deduction for "moving expenses paid or incurred ... in connection with the commencement of work ... as an employee or as a self-employed individual at a new principal place of work.")

3. Q: How does the new law change moving expense payments?

A: The moving expense exclusion and the individual deduction were both eliminated for tax years 2018 through 2025. This means that any moving expense payments provided for clergy will be subject to income taxes and SECA.

4. Q: What if the local church or annual conference doesn't make any payments to clergy—such as by paying the movers directly?

A: The clergyperson will still have the same tax liability. The tax code defines income as coming from any source, and affirmatively defines amounts received for moving expenses as part of gross income, if attributable to employment or self-employment¹. Regulations² clarify that individuals receive income in the amount of the value of moving services, even if they do not receive any money themselves, as in the case where their employer handles the move for the employee.

5. Q: Will moving expense payments be taxable income to clergy if they are made by the annual conference and not the local church?

A: Yes. The tax code defines payment for moving expenses as income, so long as the move is attributable to employment or self-employment³. Regulations⁴ indicate that the payer might be a client, customer or similar person (as well as an employer).

6. Q: How should the moving expense payments be reported to the IRS?

A: Moving expense payments by a local church should likely be reported in box 1 of the clergyperson's W-2, along with other compensation. (IRS guidance on these changes to the law has not been issued yet, but that is how taxable moving expenses were handled prior to the change.)

Moving expense payments by an annual conference for a clergyperson who is not considered an employee of the annual conference should likely be reported on a Form 1099-MISC⁵.

7. Q: In what tax year should the moving expense payment be reported to the IRS?

A: In the tax year that the clergyperson receives the payment. For example, if the moving expense payment is provided to the clergyperson on January 5, 2019, the amount should be reported to the IRS for tax year 2019, even if the moving expenses were incurred in 2018. If the moving expense payment is provided directly to a moving company, the payment should be reported to the IRS for the tax year in which the payment is provided to the moving company.

8. Q: How should moving expense payments be reported to Wespath?

A: In November 2018, Wespath will launch a new systems enhancement that will enable annual conferences to enter moving expenses in a special box in Benefits Access for plan sponsors. In the meantime, annual conferences should keep track of the amounts for each individual and (at least) the year of payment. (If reporting is needed before November, annual conferences may contact their Plan Sponsor Manager.)

9. Q: When should moving expense payments be reported to Wespath?

A: Reporting of moving expense payments to Wespath should align with the tax year in which the payment was made and reported to the IRS. For example, if the moving expense payment is provided to the clergyperson on January 5, 2019, the amount should be reported to Wespath in 2019, even if the move occurred in 2018. (If prior tax year reporting is needed, annual conferences may contact their Plan Sponsor Manager.)

¹ Internal Revenue Code, Section 82 includes in gross income "any amount received or accrued, directly or indirectly, by an individual as payment for or reimbursement of expenses of moving ... which is attributable to employment or self-employment."

² Treas. Reg. 1.82-1(a)(2).

³ Code Section 82; see footnote 1.

⁴ Treas. Reg. 1.82-1(a)(3).

⁵ See, e.g. GCFA Guidance, available at <http://www.gcfa.org/news/2018/may/03/tax-cuts-and-jobs-act-update-released/>

10. Q: What is the tax impact to the clergyperson if the local church fails to report these moving expense payments to the annual conference?

A: Assuming the local church reports the expense it pays on the clergyperson's W-2 as income, there should be no effect on his or her taxes. However, if the local church does not report the payment to the annual conference, the clergyperson may receive fewer plan benefits.

11. Q: How do moving expense payments impact clergy benefits under the Wespath-administered plans?

A: Plan benefits are based, in whole or in part, on compensation. Because the law change makes moving expense payments taxable, the payments will fall within the definition of "compensation" for CPP, CRSP and RPGA. Therefore, if the payments are reported to Wespath, plan benefits will increase for tax years 2018 through 2025 (absent any plan amendments).

12. Q: Do moving expense payments provided increase the deemed value of parsonages under our plans' definitions of compensation?

A: Yes. For clergy who are provided with a parsonage, the 25% of compensation value that the plans attribute to a parsonage includes the moving expense payment. In other words, a clergyperson's compensation, including the moving expense payment, is multiplied by 25% to obtain the deemed value of a parsonage, and that amount is then added to the clergyperson's total plan compensation.

13. Q: Do moving expense payments provided in connection with a clergyperson's retirement fall under the plans' definition of compensation?

A: No.

14. Q: Which benefit plans are impacted by the law change?

A: Moving expense payments may affect clergy benefits in CPP, CRSP DB and DC, and RPGA.

15. Q: How much will this change affect a clergyperson's retirement contributions?

A: The amount of additional retirement plan contributions is equal to the plan sponsor contribution percentage multiplied by the amount of the moving expense payment. For example, if a moving expense payment of \$4,000 is provided to a clergyperson who participates in CRSP DC, the clergyperson will receive an extra plan sponsor contribution of \$120⁶ (\$4,000 times 3%), assuming the clergyperson is contributing enough to the United Methodist Personal Investment Plan (UMPIP) to receive a full matching contribution.

16. Q: How will Wespath bill the annual conference for these additional contributions?

A: The annual conference's monthly contribution remittance will include the amount of additional retirement plan contributions for any moving expense payments reported in that billing period. Retirement plan contributions for moving expense payments are billed in a single month and are not spread out over a period of time. A new *Moving Expense Payment Contribution Detail* report will be available beginning in November 2018. This report details the additional retirement plan contributions billed in that period.

17. Q: Is UMPIP impacted by the law change?

A: UMPIP is being amended retroactive to January 1, 2018, so that moving expense payments will not be considered compensation for benefits determination purposes. As a result, UMPIP will not be impacted by the law change.

However, if a clergy participant in CRSP who is provided with a moving expense payment intends to earn the full match, he or she must elect to contribute more than 1% on the *UMPIP Contribution Election* form to earn the full match in CRSP DC. The additional contributions should equal at least 1% of the amount of the moving expense payment (1.25% if the clergyperson is provided with a parsonage). See question 19.

⁶ If the clergyperson has a parsonage, the additional contribution will equal \$150 (\$5,000 times 3%), as the additional \$4,000 of compensation is multiplied by 125% in order to include the parsonage value on the additional compensation.

18. Q: Can CPP, CRSP and RPGA also be amended, like UMPIP, so that moving expense payments are not included in the plans' definitions of compensation?

A: CPP, CRSP and RPGA may be amended only by General Conference. As a result, Wespath is only able to propose a change to the definitions at the next regular General Conference in 2020. Wespath intends to make such a proposal, which would amend the definitions of compensation as of the beginning of 2020, to bring the definitions into alignment with UMPIP. If this proposal is approved, moving expense payments would no longer be taken into account when determining plan benefits as of the beginning of January 2020.

19. Q: If a clergyperson is contributing 1% of plan compensation to UMPIP, and receives a moving expense payment, will he or she receive the full 1% matching contribution in CRSP DC?

A: A clergyperson who is contributing exactly 1% of compensation to UMPIP will need to increase his or her contributions slightly to receive the full match in CRSP DC. UMPIP and CRSP DC will have slightly different definitions of plan compensation until CRSP can be amended at General Conference 2020. Since UMPIP's definition of compensation will not include moving expense payments, and CRSP DC's will, clergy compensation will be higher under CRSP than UMPIP. So, 1% of a clergyperson's CRSP DC compensation will be greater than 1% of his or her compensation in UMPIP.

To maximize the match, clergy must contribute an additional amount equal to 1% of the amount of the moving expense payment to UMPIP. For example, if a clergyperson currently contributes 1% of plan compensation to UMPIP and receives a moving expense payment of \$4,000, he or she will need to contribute an additional \$40 ($\$4,000 \times .01$) to UMPIP to earn the full match in CRSP, or \$50 if he or she is provided with a parsonage ($\$4,000 \times .0125$).

20. Q: Are local churches required to report to their annual conferences any moving expense payments provided to clergy?

A: Yes. If such amounts are not reported to the annual conference, which reports such amounts to Wespath, clergy will not receive the full amount of benefits to which they are entitled under CPP, CRSP DC and/or RPGA.

21. Q: How should annual conferences and/or local churches report this additional compensation to Wespath for benefits plan purposes?

A: In November 2018, Wespath will launch a new systems enhancement that will enable annual conferences to enter moving expenses in a special box in Benefits Access for plan sponsors.

Until then, local churches should report any moving expenses payments provided for clergy to their annual conferences. Annual conferences should track these reported amounts, as well as any moving expense payments provided by the annual conference, so that the total amounts can be reported to Wespath in November following the systems enhancements. See question 8.

22. Q: If local churches report clergy moving expense payments to their annual conferences, will it result in increased bills for clergy benefits?

A: Yes. Since moving expense payments to clergy are considered compensation, they will increase the amount of benefits to which clergy are entitled under CPP and CRSP DB and DC (and, for those appointed to a general agency, RPGA). Thus, the amount that local churches are billed by annual conferences for clergy benefits may increase during the billing period in which the payment is made to account for the increased benefits to clergy. Some annual conferences, however, might choose not to pass this additional cost on to the local churches, in order to keep monthly bills consistent.

23. Q: Where can I learn more about this?

A: More information will be provided in upcoming *Hark* articles. A video will also be prepared by Wespath for annual conferences, local churches and clergy.