

## HERE IS AN ARTICLE REGARDING TAXING A PARSONAGE

Q&A: Avoiding Property Taxes-[churchlawandtax.com](http://churchlawandtax.com)

Is it legal to transfer the pastor's title to his home to our church?

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Our pastor owns his home. He would like to transfer the title to the home to our church, but continue to treat it as his residence. The goal is to avoid paying property taxes on the home. In the event that he moves to another church in a different community, he wants the church to reconvey the home back to him so that he can sell it and realize any gain or equity. Is it legal to do this?

There are a number of problems with such an arrangement, not the least of which is the fact that it may be viewed as unlawful tax evasion for which criminal penalties may be assessed.

Theoretically, your pastor can purchase a home and donate it to the church. So far so good. However, the amount he can claim as a charitable contribution deduction is limited to 50 percent of his adjusted gross income, although any balance can be carried forward for up to five years. Beyond that, any deduction is lost.

Assuming title to the home is transferred to the church, it may or may not be exempt from property taxes. That depends on your state law. If the pastor continues to live in the home, it becomes, in effect, a church-owned parsonage. In about 15 states parsonages are exempt from property taxes. If your state law does not exempt parsonages from taxation, then there is no point in the pastor transferring title to his home to the church, if his only purpose is to avoid paying property taxes.

If parsonages are exempt from tax in your state, the pastor must live in the home (or another pastor must do so) for it to qualify as a tax-exempt parsonage. The problem then becomes what to do with the home if and when the pastor wants it back, since this is what is intended. In other words, the objective is for the pastor to avoid paying property taxes on the home while it is his residence, and then for the church to transfer the home back to him when it ceases to be his residence due to retirement or accepting a call in another community. This way the pastor can sell the home and receive any gain or equity.

Conveying the home back to the pastor raises significant problems under the federal tax code unless the church reports the entire net value of the home as taxable income to him in the year the home is reconveyed. If this does not happen, then the pastor has received an "excess benefit transaction" for which substantial penalties can be assessed under section 4958 of the tax code. These penalties are known as ""intermediate sanctions," and they can be up to 225 percent of the value that is transferred to the pastor and not reported as taxable income.

Also, the church's tax-exempt status under federal law is jeopardized because this arrangement may be viewed by the IRS as prohibited "inurement" of a church asset for the benefit of a private individual. The assets of tax exempt ("501(c)(3)") organizations, including churches, cannot inure to the benefit of private individuals other than as reasonable compensation for services.

The bottom line is that the arrangement you are considering creates a minefield of legal and tax issues that would be impossible to navigate in the way you desire. The assistance of a local tax professional is essential.