

# News & Notes

Winter 2019-2020

## Considering Opting Out of Social Security? Critical Issues to Review

By Jerry Rich, FCMM Vice President

*Note: In the Fall 2019 issue of News & Notes I reviewed how ministers are paid and treated by the Internal Revenue Service for tax purposes, including their dual status as W-2 employees but “self-employed” for Social Security (SS) purposes. Ministers are subject to the SECA (Self Employment Contributions Act) rate for Social Security and Medicare taxes (15.3%), rather than the FICA rate paid by other employees (7.65%) and employers (7.65%).*

*However, some ministers have chosen to exercise an option to exempt themselves from SS. Upon timely application to opt out of the Social Security (including Medicare) system — within two years of credentialing and after receiving at least \$400 for services as a minister — the minister may be exempted from paying SS taxes on income from religious employment and consequently from eligibility to receive benefits.*

*In this issue, I’m focusing on the issues a minister should review if considering applying for exemption. In the Spring 2020 issue, I’ll explore the provisions a minister should make if opting out.*

### **Basis for Exemption**

To seek an exemption from SS, the minister must submit Form 4361, certifying “that I am conscientiously opposed to, or, because of my religious principles I am opposed to, the acceptance (for services I performed as a minister...) of any public insurance that makes payments in the event of death, disability, old age, or retirement; or that makes payments toward the cost of, or provides services for, medical care.”

The exemption is not to be based on financial objections to the SS system, on a concern that SS won’t be viable, or on the view that the minister is a better manager than the government program.

The Internal Revenue Service (IRS), the agency which handles exemption requests, considers the opt-out decision to be so significant and so tied to the basis of conscientious belief, that three steps are required: (1) Notification of the credentialing body (before filing the exemption form as stated in the form instructions), (2) filing of the 4361 Form, and (3) subsequent certification to the IRS that the applicant understands the nature of the decision and the irrevocable

consequence. There is no current window to retract the opt-out and re-enter SS, so the decision creates a permanent status.

For more information, see IRS Publication 517.

### **Does the EFCA Have a Position?**

According to Greg Strand, Executive Director of Theology and Credentialing, the Evangelical Free Church of America (EFCA) “does not advocate nor encourage ... pastors to opt out of paying self-employment taxes.” He further states, “If you are a pastor of an EFCA church the EFCA will not oppose your opting out of the social security system, but it does strongly discourage your making this election.”

When an EFCA-credentialed, or EFCA-serving, minister notifies the EFCA of intent to file for exemption from SS, the credentialing office will request that the minister submit his biblical basis and rationale for the decision, which will be placed on file as recognition of meeting the IRS requirement and of maintaining accountability.

Additionally, Greg encourages those considering opting out to discuss the

matter with the leaders of their church, both for information and counsel. I would also suggest conferring with other ministers, at various life stages, before proceeding with filing an exemption form.

### **How Consistent is the Belief?**

However strongly a minister may feel about his concern for, or objection to, the Social Security and Medicare systems, the only legal motive for exemption requires conscientious objection, based on religious principles, to participation in a public insurance or benefit program.

Dan Busby, president of the Evangelical Council for Financial Accountability, and author of the annual Zondervan Minister’s Tax and Financial Guide, observes that “Opting out of Social Security is one of the most abused provisions to the tax law that applies to ministers. Too often ministers have opted out because they are concerned about long-term safety of the program or they feel they have a better way to invest the funds. These reasons do not provide a basis to sign Form 4361.”

There is also little merit to the “I didn’t

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know any better” defense, since Form 4361 specifically states “Under penalties of perjury, I declare that I have examined this application and to the best of my knowledge and belief, it is true and correct.”

To opt out, the minister’s belief should be demonstrably integral to his theological convictions. And such a belief should be thorough-going enough to lead the minister to refrain from seeking benefits from the government plan based on his religious employment income. (The minister may still receive SS benefits related to non-ministerial employment.)

### What about receiving benefits through a spouse?

While spousal benefits are available through the SS system, the dividing line between genuine conscientious objection and opportunistic playing of the system is another matter of integrity for the minister to consider.

### The Tax Issue

Unlike private insurance and retirement accounts, the SS/Medicare system is not based on voluntary contributions but on taxes. The taxes collected don’t go into a reserve fund for the individual’s retirement, disability, or medical care. The taxes support those currently drawing benefits and those who will be eligible in the future.

Regardless of practical, or theoretical, concerns about the SS system, the imposition of taxes by the government becomes an ethical obligation of the

citizen. Romans 13:7 instructs believers to pay “taxes to whom taxes are owed” (ESV).

On this aspect, Russell Moore, President of Ethics and Religious Liberty Commission, writes: “The so-called ‘opt out’ for Social Security exists to protect the consciences of those preachers of the gospel who believe that public insurance is sinful, or who believe public insurance as it relates to ministry violates principles of the separation of church and state.... As you make this decision, ask yourself whether you plan to preach and teach your people that participating in Social Security (as payer or recipient) is a sin against God. If the ‘opt out’ provision were revoked, would you willingly go to prison rather than pay the tax?” He concludes that if the answer is “no” then the minister is not actually a conscientious objector.

### Impact of Opting Out

Ministers who exercise the option of exemption from Social Security face important financial planning needs. While these economic matters are not the basis for a decision, they should be considered and addressed due to their impact.

The opting-out minister should look at replicating the benefits provided to workers covered by SS through private insurance and retirement investing. The taxes not paid would otherwise have covered benefits for retirement supplemental income, disability, survivor benefits, dependent benefits, and medical

coverage after age 65.

At minimum, the equivalent of the 15.3% not paid as SECA tax should be used for these purposes. In addition, regular ratios for retirement funding (typically suggested as 15%) should be implemented. Term life insurance and adequate disability insurance becomes even more essential.

The safety net of public insurance in current programs has ramifications not only for the individual participating but for the baseline of caring for those of all economic standing in our society.

### Summary

A decision regarding opting out of, or participating in, Social Security with respect to ministerial income is of major consequence for the minister and his family – for a lifetime. Any decision to opt out should be for valid theological and conscience reasons, and should be followed up by careful, sustained attention to the alternatives for benefits coverage.

### Lifetime Fund (Option C) Rate for 2020 Announced

The FCMM Board of Trustees has set the new earnings rate for the Lifetime Fund (Option C) at 4% starting January 1, 2020.

Option C is a collective investment fund that aims to provide steady long-term earnings to the member. For more information and details, see the article “Understanding Option C: The Steady Approach” at the FCMM website.

Since inception in 2004, Option C has returned between 3% and 6% each year and is fully funded. The rate in 2019 was 3.5%, 4% in 2018, and 3% in 2017.

The Retirement Plan offers an array of investment options, from FCMM managed funds to four families of mutual funds. More information on investment Options and funds can be found in the downloadable document “Form 31: Investment Option Descriptions.”

## SECURE Act Changes Date for RMDs

With the enactment of the SECURE Act, members of the Retirement Plan who have not yet turned age 70.5 as of 12/31/2019 and have not begun to take RMDs are not subject to RMDs until the year after turning age 72. More details will appear in an updated article on the FCMM website in coming months.



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