***Silverman v. Commissioner, 57 T. C. 727 (1972)***

A full-time cantor of the Jewish faith qualifies as a "minister of the gospel" for the purpose of the parsonage allowance exclusion under section 107 of the Internal Revenue Code.

**Summary**

In Silverman v. Commissioner, the U. S. Tax Court held that David Silverman, a full-time cantor at a Jewish synagogue, was eligible for the parsonage allowance exclusion under section 107 of the Internal Revenue Code. The case revolved around whether a cantor, who performs significant religious duties but is not ordained in the traditional sense, could be considered a "minister of the gospel. " The court affirmed that, within the Jewish faith's structure, a cantor's role and commissioning by the congregation qualified him for the exclusion, distinguishing this from a prior case involving a different religious context. This ruling clarified the application of the exclusion to non-traditional clergy roles and highlighted the importance of understanding the specific ecclesiastical practices of each religion when applying tax laws.

**Facts**

David Silverman served as a full-time cantor at Beth El Synagogue in Minneapolis, receiving a parsonage allowance as part of his compensation. Silverman's duties included conducting religious services, performing sacerdotal rites such as weddings and funerals, and training young congregants. He was commissioned by the Cantors Assembly of America and had been "called" by Beth El Synagogue to serve as their cantor. The Commissioner of Internal Revenue challenged Silverman's exclusion of the parsonage allowance from his gross income, asserting that he was not a "minister of the gospel" under section 107 of the Internal Revenue Code.

**Procedural History**

The Commissioner determined deficiencies in Silverman's income taxes for the years 1962 and 1963, arguing that Silverman was not entitled to the parsonage allowance exclusion. Silverman and his wife filed a petition with the U. S. Tax Court challenging these deficiencies. The Tax Court, in its decision, found in favor of the petitioners, affirming Silverman's eligibility for the exclusion based on the evidence presented.

**Issue(s)**

1. Whether a full-time cantor of the Jewish faith, who is commissioned by the Cantors Assembly and called by a congregation, qualifies as a "minister of the gospel" under section 107 of the Internal Revenue Code.

**Holding**

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1. Yes, because within the Jewish faith, the cantor's role and the manner of his commissioning by the congregation satisfy the requirements for the parsonage allowance exclusion.

**Court's Reasoning**

The court's reasoning centered on interpreting the term "minister of the gospel" within the context of the Jewish faith. The court relied heavily on its previous decision in Salkov v. Commissioner, which held that a cantor was eligible for the exclusion. The court emphasized that in Judaism, there is no formal ordination by a central ecclesiastical body, and cantors are commissioned by being "called" by their congregations. The court rejected the Commissioner's argument that formal ordination was necessary, stating that the Jewish faith's lay democratic structure and bipartite ministry (cantor and rabbi) were distinct from other religions. The court also distinguished the case from Lawrence v. Commissioner, noting the different ecclesiastical structures and the evidence presented in each case. The court concluded that Silverman's performance of ministerial duties and his commissioning by the congregation qualified him for the exclusion.

**Practical Implications**

This decision has significant implications for the application of section 107 to non-traditional clergy roles across different religions. It underscores the need for courts to consider the specific ecclesiastical practices and structures of each religion when determining eligibility for tax exclusions. For legal practitioners, this case serves as a reminder to thoroughly understand the religious context when advising clients on tax matters related to religious positions. The ruling may encourage other religious figures in similar roles to seek the parsonage allowance exclusion, potentially affecting their tax planning strategies. Subsequent cases have cited Silverman when addressing the eligibility of various religious figures for similar exclusions, reinforcing its role as a precedent in this area of tax law.

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