

## **Should Pastors Opt-Out of Social Security?**

Opting out of Social Security is a significant decision. By filing IRS Form 4361, pastors can cite theological objections to opt out. However, this decision, which must be made within two years of ordination, is permanent. Given the far reaching significance of this choice, we talked with the Financial Planning Advisors of Geneva Benefits Group for their insights.

## **Geneva's Experience in Ministry and Financial Wellness**

### **Do you regularly work with ministers who have opted out of Social Security?**

Yes, many of our participants have opted out, but often regret it. Most did so on advice from older peers. Compensating for lost Social Security benefits is difficult and gets harder with age.

Keeping 15.3% more of your paycheck is appealing, especially with modest ministry wages. However, Social Security offers significant retirement support, including income and access to Medicare.

## **The Reason Behind Opting Out**

### **Ministers have the ability to opt out of Social Security. What is the reason for this?**

A thorough explanation would require considerable detail, but a brief historical overview is beneficial. The Social Security Act was enacted in 1935, and the Federal Insurance Contributions Act (FICA) was established to fund it, with costs shared between employers and employees.

Clergy, along with certain other groups, were classified as "self-employed" and initially excluded from the Social Security system. In the 1950s, there was an intention to include these groups, leading Congress to pass the Self-Employment Contributions Act (SECA). This explains why ministers who remain in Social Security must pay both the employer and employee portions of Social Security, and why churches are not permitted to contribute directly to Social Security on behalf of their ministers. Consequently, ministers have a "dual tax" status. They are considered W-2 employees of the church for federal and state income tax purposes while being treated as self-employed for Social Security and Medicare tax purposes (with SECA tax paid on both salary and housing).

When SECA was first established, clergy were required to opt in to participate. However, this proved difficult, and eventually, the "opt in" window became an "opt out" window. Therefore, what began as an effort to improve retirement security for clergy has led to confusion.

## Reasons for Opting Out of Social Security

Individuals often choose to opt out for two primary reasons: 1) the concern that Social Security may be insolvent by the time they retire; and/or 2) the belief that by saving and effectively investing these tax dollars, they could secure more income during retirement than Social Security would provide.

However, it is important to note that the IRS allows pastors to opt out of Social Security for only one specific reason. A pastor can opt out if they can truthfully affirm the following:

“I am conscientiously opposed to, or because of my religious principles I am opposed to, the acceptance of any public insurance that makes payments in the event of death, disability, old age, or retirement; or that makes payments towards the cost of, or provides services for, medical care” (IRS Form 4361; italics and underline added).

For ministers whose consciences are bound by Scripture, opting out of Social Security necessitates a biblical belief that ministers should not accept or receive public insurance benefits for retirement, disability, or healthcare. Ministers must swear or certify that they are opting out solely for this reason. Furthermore, they must certify that they have already made this view known to their Presbytery (or ordaining body).

Simply stated, a minister must believe that Scripture teaches it would be inappropriate for him to receive Social Security, Medicare, or any other public insurance benefits.

While various arguments have been presented over the years, our stance aligns with almost every major Protestant denomination in the United States. We remain unconvinced by any exegetical or theological rationale that supports the idea that ministers should be opposed to receiving Social Security or Medicare benefits, at least one consistent with the belief certification required on IRS Form 4361. Nonetheless, we acknowledge that some individuals genuinely believe they must opt out of Social Security for scriptural reasons.

## Addressing Common Concerns

**What do you tell pastors when they say, “Social Security is going to be insolvent by the time I hit retirement age”?**

Although there are frequent discussions about Social Security's potential insolvency, the consensus within the financial community is that Social Security will continue to support American retirees for many years. Adjustments to its administration and funding have occurred in the past, and similar changes to the retirement age, tax rates, cost-of-living adjustments, means testing, etc., are likely to be made in the future.

According to the Center on Budget and Policy Priorities, without Social Security, forty percent of senior citizens would experience poverty. Many retired pastors who opted out of Social Security face substantial financial difficulties, and most widows seeking assistance were married to men who opted out of Social Security.

The argument that "Social Security will be gone" has been around since at least the 1970s. Many currently retired pastors encountered this argument when they were first ordained, and those who followed it often regret their decision.

Therefore, there are several reasons to believe Social Security will persist.

(It is vital to note that ministers cannot legitimately sign IRS Form 4361 based on this reason. By signing the form, a minister is 'certifying' opposition to receiving the benefits, not merely avoiding the tax or expressing doubt about the program's longevity.)

### **How about when pastors say, "I can invest my money better than the government can"?**

The IRS Form 4361 does not permit financial concerns as a reason for opting out of Social Security. As attorney and CPA Richard Hammar states, opposition must be rooted in religious beliefs.

Social Security is an insurance program, not an investment. To replace it financially, one would need to:

- Invest to cover a potential 20-30+ year income gap left by the absence of Social Security benefits, including benefits to a spouse.
- Save enough to replace benefits for minor children or obtain sufficient disability and life insurance policies.
- Pay monthly Medicare Part A premiums, currently \$518/month per spouse, totaling \$12,432/year plus inflation adjustments, requiring an additional \$300,000+/- on day one of retirement.
- Ensure protection against death or divorce, likely involving more savings and insurance premiums.

Even considering finances (which is legally impermissible), it remains unwise to opt-out of Social Security. Private healthcare insurance for retirees would be prohibitively expensive, so purchasing Medicare Part A coverage is essential.

**So, their personal investments would have to perform exceptionally well, right?**

Yes, but it's risky. Market investments can be volatile, unlike Social Security which is stable. Social Security offers a guaranteed income stream, complementing market-based investments. Combining Social Security with retirement plans provides both fixed income and potential market gains. We believe a balanced strategy using both Social Security and retirement accounts like a 403(b)(9) is best for funding retirement. If these sources are insufficient, other strategies can be explored.

## **Potential Legal Ramifications**

### **Are there any other potential legal ramifications?**

Yes. Opting out can only be done for specific reasons, otherwise there are several issues to be aware of. According to Richard Hammar, "Ministers can opt out of Social Security only if they meet strict religious-based criteria. Missteps can lead to significant penalties." Those "who opt out of Social Security without meeting the legal criteria may face IRS audits. For example, in the 1995 case *Hairston v. Commissioner*, the Tax Court revoked a minister's exemption after determining that his opposition was not based on religious principles. The court ruled that the minister's trial testimony conflicted with his application on Form 4361."

Additionally, according to Hammar, there are other financial consequences, "including penalties for non-compliance, back taxes and accrued interest, (and) potential legal disputes and reputational harm ... Simply signing and submitting Form 4361 does not guarantee exemption. The IRS and courts may later question the validity of the minister's religious opposition." Therefore, there can be other potential legal as well as financial ramifications.

## **More Questions?**

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