

## MANSE LEASEBACKS

Leaseback agreements enable pastors who own their own property to lease the property to the trustees of the church, in effect turning it into a church manse which the pastor then occupies under a service occupancy agreement. This can reduce the tax liabilities on both the church and the pastor.

A rent has to be paid by the church to the pastor based on market rents for the area. Ideally, written confirmation of the market rent should be obtained from a local valuer. Where the pastor owns a share in the property, the rent must reflect the percentage owned by the pastor (i.e. if the pastor owns  $\frac{3}{4}$  of the manse and the church owns  $\frac{1}{4}$  the rent paid to him must be  $\frac{3}{4}$  of the market rent). If the property is subject to a mortgage, the written consent of the lender must be obtained. It is likely that the lease granted by the pastor to the church will include a clause allowing the pastor to terminate the lease if the pastor's right to live in the property under the service occupancy comes to an end. The pastor will need to take advice on the appropriate length of the lease to grant to the church and whether or not the lease will be regarded as a business tenancy under Part II of the Landlord and Tenant Act 1954. If the lease is regarded as a business tenancy then it becomes more difficult for the pastor to terminate the lease.

The benefits for the pastor (and his wife) are likely to be:-

1. The pastor's liability for income tax and national insurance contributions is likely to be reduced.
2. The interest on the pastor's personal mortgage will be tax deductible because the arrangement is deemed to be a commercial transaction.
3. There is unlikely to be a capital gains tax on the sale of the property (notwithstanding it has been used for a "commercial purpose").
4. Any profit rent (the excess of the rent over the mortgage interest) would be divided between the pastor and his wife (if the property is jointly owned) for income tax purposes. If the wife does not have other income her personal reliefs could mean, in effect, that she receives this sum gross. Please note that tax relief is only available on the interest paid and not on the capital repayments.

This arrangement should not be regarded as merely a paper exercise to avoid tax and national insurance. The pastor needs to understand that there are legal ramifications and during the period of the lease the property does come under the full control of the church officers (subject to the terms of the lease). In effect there are three legal agreements operating concurrently:

- a) the lease of the property to the church trustees.
- b) the conditions of employment stating that living accommodation will be provided as part of the salary package.
- c) a 'salary sacrifice' agreement if the pastor's stipend is reduced as a result of entering into these arrangements.

The legal and taxation issues are very complicated and churches entering into these arrangements are strongly advised to take professional advice. The information in this Fact Sheet is not intended to be regarded as constituting legal advice.

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