

Atheists target clergy's tax break for housing

by [Kimberly Winston](#) in the [October 18, 2011](#) issue

A long-standing tax break for clergy and other "ministers of the gospel" is facing the latest in a string of challenges in federal court. The Wisconsin-based Freedom from Religion Foundation filed suit September 13 to challenge the constitutionality of tax deductions that clergy are allowed to claim on their housing expenses.

The tax break, called a parish exemption, allows clergy to deduct income that is designated as a housing allowance, including rental payments and mortgage interest. Such allowances are a common way for religious congregations to boost the value of modest clergy salaries.

The suit names Treasury Secretary Timothy Geithner and Internal Revenue Service Commissioner Douglas Shulman. The plaintiffs are Dan Barker and Annie Laurie Gaylor, copresidents of FFRF, and Anne Nicol Gaylor, a past president and cofounder. Annie Laurie Gaylor is executive editor of *Freethought Today*.

All three plaintiffs receive part of their salaries as housing allowances but do not qualify for the tax exemption because they are not clergy. That amounts to an unconstitutional government endorsement of religion, they claim, because the parish exemption aids and subsidizes religion by providing ministers with financial benefits not given to secular workers.

"The government is preferring ministers of the gospel over those of us who think religion should be, if not eliminated, limited," said Barker. A former ordained minister, Barker has claimed the exemption in the past.

Grant Williams, a spokesman for the Internal Revenue Service, declined to comment on any pending litigation.

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parish exemption entered the tax code in 1954, the same year the phrase "under God" was added to the Pledge of Allegiance. The country was deep in the cold war, and providing clergy with a tax break was seen as reinforcing religiosity in the fight against godless communism.

There

have been several challenges to the parish exemption in recent years. In 1996, the IRS denied megachurch pastor Rick Warren a \$79,999 deduction he claimed under the law, but he won on appeal. In 2002, Congress passed the Clergy Housing Allowance Clarification Act to protect the parish exemption but limited it to the fair-market rental value of a home.

The FFRF filed a similar suit in 2009 in

California but withdrew it earlier this year out of concern that the plaintiff's legal standing—as a taxpayer—was not strong enough. After the FFRF began awarding all three plaintiffs a housing allowance within the past year to improve their standing in the case, they hope the new suit demonstrates that they suffer serious financial injury when they are denied the exemption. —RNS