

NO. 00-71217

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

RICHARD D. and ELIZABETH WARREN,

Petitioners-Appellees

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellant

**ON APPEAL FROM THE DECISION
OF THE UNITED STATES TAX COURT**

**MOTION FOR LEAVE TO ADD AMICI CURIAE TO BRIEF
SUPPORTING THE CONSTITUTIONALITY OF §107(2)**

COME NOW, Evangelical Council for Financial Accountability, the Lutheran Church-Missouri Synod, General Council on Finance and Administration of The United Methodist Church and the National Association of Temple Administrators (collectively referred to as the “Amici Curiae” herein), and hereby pray that this court will grant leave to allow them to join in the Amici Curiae Brief filed by the National Association of Church Business Administration et al.

1. The Amici Curiae pray that this court either avoid any decision on the constitutionality of 26 U.S.C. §107(2) or affirm its constitutionality. They represent thousands of churches and their ministers across America. Virtually every minister receives a housing allowance from his or her church. This court's decision will affect how each compensates at least some of its ministers. Further, ministers are compensated very modestly compared to other learned professionals with comparable education and experience. If the churches' ministers are required to pay more federal income taxes, then the churches must divert more of their resources from their charitable and welfare activities toward their ministers' compensation. As a result, the Amicus Curiae are vitally interested in the outcome of this proceeding. The filing of this Brief was authorized by the appropriate body of each Amici Curiae.

WHEREFORE PREMISES CONSIDERED, Evangelical Council for Financial Accountability, the Lutheran Church-Missouri Synod, General Council on Finance and Administration of The United Methodist Church and the National Association of Temple Administrators pray that this court grant this motion to join the brief filed by the National Association for Church Business Administration et al and for such other and further relief to which they are justly entitled.

Respectfully submitted,

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Missouri Synod, General Council on
Finance and Administration of The United
Methodist Church and the National
Association of Temple Administrators

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached motion and brief was forwarded by first class mail, postage prepaid, on the _____ day of May 2002, to all parties as required by FRAP 25(b).

Respectfully submitted,

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IDENTITY AND INTEREST OF AMICI CURIAE

These are the organizations seeking to join the NACBA et al Brief:

Evangelical Council for Financial Accountability
440 West Jubal Early Drive, Suite 130
Winchester, VA 22601

ECFA is committed to helping Christ-centered organizations earn the public's trust through developing and maintaining standards of accountability that convey God-

honoring ethical practices. ECFA members are located across the U.S. and U.S. territories and range from the very large national ministries to smaller local ministries and churches. Its 1,044 members include many organizations that employ clergy and pay housing allowances. Its members will be severely and adversely affected by an unconstitutional ruling from this court. In such a circumstance, many members will be required to divert funds from charitable and welfare programs to fund the additional tax collected from ministers. Ultimately, the government will be required replace these programs and services to its citizens.

Lutheran Church – Missouri Synod
1333 South Kirkwood Road
St. Louis, MO 63122

The Lutheran Church-Missouri Synod (the “Synod”) is the second largest Lutheran body in the United States, with approximately 2.5 million individual members. Nearly 20,000 ministers of the Synod are employed by over 6,000 congregations, schools, and other Lutheran organizations.

Synod ministers are not highly compensated and financially depend upon the tax benefit provided by Section 107(2). A 1999 clergy compensation study of Synod pastors showed a median total compensation (cash salary and allowances) of \$44,000.

A finding by this Court that Section 107(2) is unconstitutional would affect the ministers of the Synod more than ministers of denominations that own and utilize parsonages or rectories for most of their ministers. If this Court finds Section 107(2) unconstitutional, only that minority of Synod ministers who reside in parsonages would be able to continue to exclude their housing from their incomes. Virtually none of the Synod’s female ministers would be able to exclude their housing, because the vast majority of female ministers do not reside in parsonages.

The Synod supports the reasoned decision by Congress to allow the exclusion by a minister of his or her housing allowance.

General Council on Finance and Administration of
The United Methodist Church
1200 Davis St.
Evanston, IL 60201

The General Council on Finance and Administration of The United Methodist Church (GCFA) is the finance and administrative arm of The United Methodist Church. The United Methodist Church is a worldwide religious denomination with approximately 9 million members in the United States and it has approximately 36,000 local churches and 43,500 pastors in the United States. GCFA is charged under United Methodist polity with protecting the legal interests of the denomination and files this brief in carrying out that responsibility. Its pastors will be severely impacted if this court rules Section 107(2) unconstitutional.

National Association of Temple Administrators
6114 La Salle Ave #731
Oakland CA 94611-2821

The National Association of Temple Administrators (“NATA”) is the professional association of the executives, administrators or managers for more than 400 Reformed Synagogues or Temples. NATA is dedicated to improving the management of Judaism's key institution: the synagogue. Most of the synagogues do not own housing for their rabbis. An unconstitutional ruling from this court will severely impact the finances of their employers.

Rule 26.1 STATEMENT

None of the Amici Curiae are publicly traded, nor do they own 10% or more of any publicly traded company.