

George W. Bush Presidential Library

Collection: Executive Clerk, Office of the

Series: Saunders, G. Timothy (Tim) - Bill Files

Folder Title: 05/14/2002 [H.R. 4156] [771225]

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
002	Memorandum	[Draft] Clergy Housing Allowance Clarification Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	2	05/13/2002	P5;
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6359

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T001	Memorandum	H.R. 4156 - From: Mitchell E. Daniels, Jr.	1	05/20/2002	Transferred

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LAW_M

771225

FG006-01

Barcode Scanning Sheet



Collection Code: **SECLOG**

Staff Name:

Document Date:

Correspondent: **TIM SAUNDERS**

Subject/Description: **OVERSIZE ATTACHMENT # 9466 NARA # 9357 BOX 2
FOLDER 3C BILL FILE RECEIVED FROM THE OFFICE OF
THE EXECUTIVE CLERK - MAY 14 02 ENROLLED BILL
H.R. 4156 - CLERGY HOUSING ALLOWANCE
CLARIFICATION ACT OF 2002**



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

02 MAY 20 09:46

THE DIRECTOR

THE PRESIDENT HAS SEEN

5/20/02

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4156 - Clergy Housing Allowance Clarification Act of 2002
Sponsors - Rep. Ramstad (R) Minnesota and 39 cosponsors

Last Day for Action

May 20, 2002 - Monday

Purpose

Limits the parsonage allowance exclusion in the Internal Revenue Code to the fair rental value of the home.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Treasury

Approval

Department of the Justice

Approval (informally)

Discussion

Under current law, a "minister of the gospel" may exclude from gross income: (1) the rental value of a home furnished to the minister as part of his or her compensation; or (2) the rental allowance paid to the minister as part of his or her compensation, to the extent that the allowance is used by him or her to rent or provide a home.

In May 2000, the U.S. Tax Court held in *Warren v. Commissioner* that the parsonage allowance exclusion is not limited to the lesser of the fair market value of the home or the amount used to provide a home. The Internal Revenue Service appealed the Tax Court ruling to the U.S. Court of Appeals for the Ninth Circuit. In March 2002, the Ninth Circuit Court asked for a "friend of the court" brief on the constitutionality, and the court's authority to consider the constitutionality, of the parsonage allowance exclusion itself. According to the House floor debate, the enrolled bill is intended to moot the case, and thereby avoid court review of the constitutionality of the provision, by resolving the dispute between the IRS and the taxpayer.

The enrolled bill would specify that the exclusion for a rental allowance is limited to the fair rental value of the home, including furnishings and appurtenances (such as a garage), plus the cost of utilities. The enrolled bill would apply to taxable years beginning after December 31, 2001. It would also apply to any taxable year beginning before January 1, 2002, for which a taxpayer either: (1) files an income tax return after April 16, 2002; or (2) filed a return before April 17, 2002, and limited the rental allowance exclusion on that return in the manner provided in the enrolled bill.

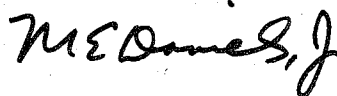
Pay-As-You-Go Scoring

H.R. 4156 would affect receipts; therefore, it would be subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The Treasury Department estimates that the enrolled bill would provide net budget savings of \$9 million over six years (FYs 2002-2007).

Conclusion and Recommendations

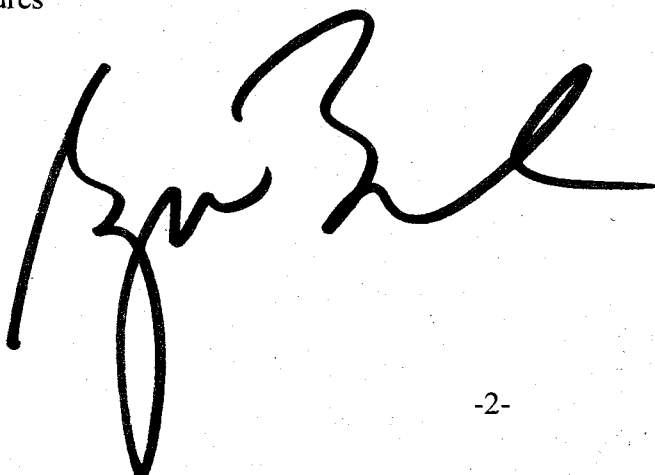
The Department of the Treasury recommends approval of H.R. 4156, which would "codify the Internal Revenue Service's longstanding interpretation" of current law.

We join Treasury in recommending approval of H.R. 4156, which passed the House by a vote of 408-0 and the Senate by unanimous consent.



Mitchell E. Daniels, Jr.
Director

Enclosures



One Hundred Seventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two*

An Act

To amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clergy Housing Allowance Clarification Act of 2002".

SEC. 2. CLARIFICATION OF PARSONAGE ALLOWANCE EXCLUSION.

(a) IN GENERAL.—Section 107 of the Internal Revenue Code of 1986 is amended by inserting before the period at the end of paragraph (2) "and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

(2) RETURNS POSITIONS.—The amendment made by this section also shall apply to any taxable year beginning before January 1, 2002, for which the taxpayer—

(A) on a return filed before April 17, 2002, limited the exclusion under section 107 of the Internal Revenue Code of 1986 as provided in such amendment, or

(B) filed a return after April 16, 2002.

(3) OTHER YEARS BEFORE 2002.—Except as provided in paragraph (2), notwithstanding any prior regulation, revenue ruling, or other guidance issued by the Internal Revenue Service, no person shall be subject to the limitations added to section 107 of such Code by this Act for any taxable year beginning before January 1, 2002.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate, Pro Tempore.*

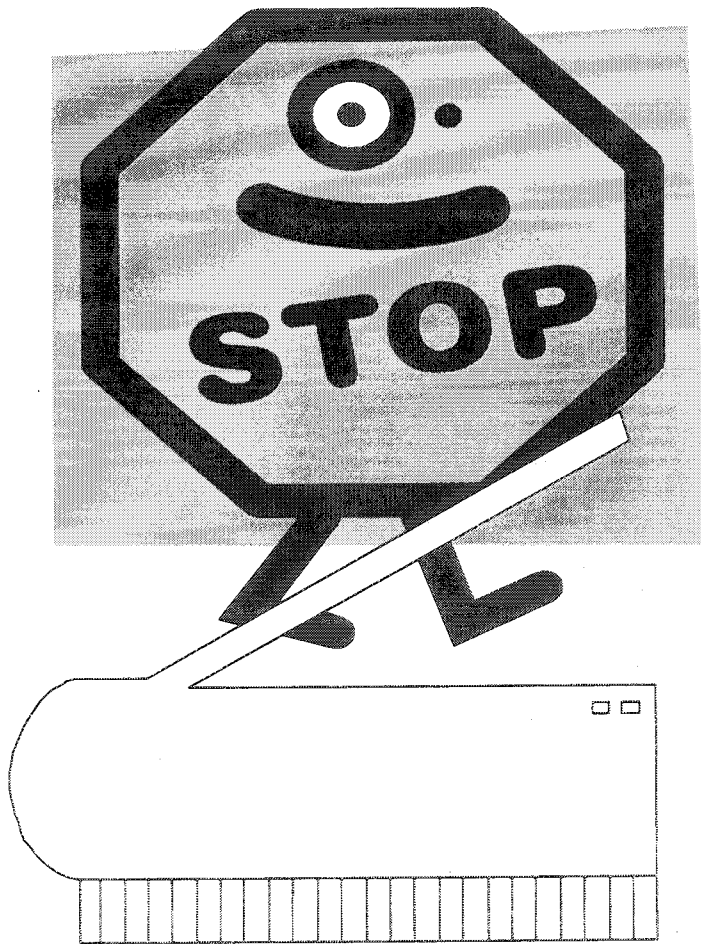
APPROVED

MAY 20 2002

Guilfoyle

THE WHITE HOUSE

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Scanning insert sheet



Remainder of case not scanned

Withdrawal Marker

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OA Num.:

9466

NARA Num.:

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WHITE HOUSE STAFFING MEMORANDUM

Date: 5-13-02, 10:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02, 3:00 PM

ENROLLED BILL H.R. 4156, CLERGY HOUSING ALLOWANCE CLARIFICATION
Subject: ACT OF 2002

	ACTION	FYI		ACTION	FYI
<i>Concurs</i> VICE PRESIDENT	☒	☐	HUBBARD <i>NC</i>	☒	☐
CARD <i>no opinion</i>	☒	☐	HUGHES	☐	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN <i>comment</i>	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☐	☐	MARBURGER	☐	☐
CALIO <i>OK</i>	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☐	☐
DANIELS	☒	☒	RIDGE	☐	☐
FLEISCHER	☐	☐	ROVE <i>NC</i>	☒	☐
GERSON	☐	☐	SPELLINGS	☐	☐
GONZALES <i>NC</i>	☒	☐	CLERK	☐	☐
HAGIN	☐	☐	<i>Jim Towey</i>	☒	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 3:00 PM TUESDAY, 5-14-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3798
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 CONNECTION ID
 ST. TIME 05/13 23:01
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SS/ RM NO. 521569

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-13-02, 10:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02, 3:00 PM

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 Subject: ACT OF 2002

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BARTLETT	☒	☐	IRASTORZA	☐	☐
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CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☐	☐
DANIELS	☐	☒	RIDGE	☐	☐
FLEISCHER	☐	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☐	☐
GONZALES	☒	☐	CLERK	☐	☐
HAGIN	☐	☐	<i>Jim Toney</i>	☒	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE SEND COMMENTS TO HIM HIKES EYT 52159 FAX 56449 NO LATER THAN 3:00 PM

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BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☐	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☐	☐
DANIELS	☐	☒	RIDGE	☐	☐
FLEISCHER	☐	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☐	☐
GONZALES	☒	☐	CLERK	☐	☐
HAGIN	☐	☐	<i>Jim Towey</i>	☒	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 3:00 PM
TUESDAY, 5-14-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3801
 CONNECTION TEL 67019
 CONNECTION ID
 ST. TIME 05/13 23:15
 USAGE T 00'53
 PGS. SENT 3
 RESULT OK

SS/ RM NO. 521569

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-13-02, 10:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02, 3:00 PM

ENROLLED BILL H.R. 4156, CLERGY HOUSING ALLOWANCE CLARIFICATION

Subject: ACT OF 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☐	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☐	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☐	☐
DANIELS	☐	☒	RIDGE	☐	☐
FLEISCHER	☐	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☐	☐
GONZALES	☒	☐	CLERK	☐	☐
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HAWKINS	☒	☐		☐	☐

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ACT OF 2002

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Draft] Clergy Housing Allowance Clarification Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	2	05/13/2002	P5;

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COLLECTION:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

05/14/2002 [H.R. 4156] [771225]

FRC ID:

6359

OA Num.:

9466

NARA Num.:

9357

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

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HAWKINS	☒	☐		☐	☐

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05/14/2002 [H.R. 4156] [771225]

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ACT OF 2002

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Subject: ENROLLED BILL H.R. 4156, CLERGY HOUSING ALLOWANCE CLARIFICATION
ACT OF 2002

02 MAY 14 AM 12:26

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☐	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
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HAWKINS	☒	☐		☐	☐

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RESPONSE:

No Opinion
AK

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
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RESPONSE:

*Legislative Affair (Howard) - ok*Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
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SSI/RM NO.

WHITE HOUSE STAFFING MEMORANDUM

[Handwritten signature]

~~DATE 5-13-02 11:26 PM~~ ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02 3:00 PM

ENROLLED BILL H.R. 4156, CLERGY HOUSING ALLOWANCE CLARIFICATION
Subject: ACT OF 2002

02 MAY 14 PM 12:20

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☐	☐
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No Comment.

RESPONSE:

*Kyle Sampson
WFO
6-5857*

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS/ RM NO.

521569

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RESPONSE:

CEA has no comment

Harriet E. Miers
Assistant to the President
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SS/ RM NO. 521569 02 MAY 14 PM 1:17

WHITE HOUSE STAFFING MEMORANDUM

Date: 5-13-02, 10:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 5-14-02, 3:00 PM

ENROLLED BILL H.R. 4156, CLERGY HOUSING ALLOWANCE CLARIFICATION

Subject: ACT OF 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☐	☐
BARTLETT	☒	☐	IRASTORZA	☐	☐
BLAKEMAN	☐	☐	JOHNSON	☐	☐
BOLTEN	☒	☐	LINDSEY	☒	☐
BRIDGELAND	☐	☐	MARBURGER	☐	☐
CALIO	☒	☐	MIERS	☐	☐
CONNAUGHTON	☐	☐	RICE	☐	☐
DANIELS	☐	☒	RIDGE	☐	☐
FLEISCHER	☐	☐	ROVE	☒	☐
GERSON	☐	☐	SPELLINGS	☐	☐
GONZALES	☒	☐	CLERK	☐	☐
HAGIN	☐	☐	<i>Jim Tourey</i>	☒	☐
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 3:00 PM TUESDAY, 5-14-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

No comment

RESPONSE:

00:14 AM 14 MAY 02
 SEARCHED INDEXED
 SERIALIZED FILED

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



OFFICE OF THE VICE PRESIDENT
WASHINGTON

02 MAY 14 PM 4:37

May 14, 2002

MEMORANDUM FOR JIM JUKES
ASSISTANT DIRECTOR, OMB

FROM: JONATHAN BURKS 
DEPUTY STAFF SECRETARY TO THE VICE PRESIDENT

**SUBJECT: Enrolled Bill H.R. 4156, Clergy Housing Allowance
Clarification Act of 2002**

The Office of the Vice President has reviewed the above-referenced draft and concurs provided that the Office of Legal Counsel in the Department of Justice has no objections.

cc: Harriet Miers
Staff Secretary

Bills Received at the White House

Date received and
notification to OMB: **5/8/2002**
Last day for action: **5/20/2002**

Official Title

H.R.4156

An Act to amend the Internal Revenue Code of 1986 to
clarify that the parsonage allowance exclusion is limited to
the fair rental value of the property.
IS HERE

521569

Document Originally
Attached to
Following Page

One Hundred Seventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two*

An Act

To amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clergy Housing Allowance Clarification Act of 2002".

SEC. 2. CLARIFICATION OF PARSONAGE ALLOWANCE EXCLUSION.

(a) **IN GENERAL.**—Section 107 of the Internal Revenue Code of 1986 is amended by inserting before the period at the end of paragraph (2) "and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities".

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

(2) **RETURNS POSITIONS.**—The amendment made by this section also shall apply to any taxable year beginning before January 1, 2002, for which the taxpayer—

(A) on a return filed before April 17, 2002, limited the exclusion under section 107 of the Internal Revenue Code of 1986 as provided in such amendment, or

(B) filed a return after April 16, 2002.

(3) **OTHER YEARS BEFORE 2002.**—Except as provided in paragraph (2), notwithstanding any prior regulation, revenue ruling, or other guidance issued by the Internal Revenue Service, no person shall be subject to the limitations added to section 107 of such Code by this Act for any taxable year beginning before January 1, 2002.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Draft] Clergy Housing Allowance Clarification Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	2	05/13/2002	P5;

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

05/14/2002 [H.R. 4156] [771225]

FRC ID:

6359

OA Num.:

9466

NARA Num.:

9357

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

02 MAY 20 4:49 PM '02

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4156 - Clergy Housing Allowance Clarification Act of 2002
Sponsors - Rep. Ramstad (R) Minnesota and 39 cosponsors

Last Day for Action

May 20, 2002 - Monday

Purpose

Limits the parsonage allowance exclusion in the Internal Revenue Code to the fair rental value of the home.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Treasury

Approval

Department of the Justice

Approval (informally)

Discussion

Under current law, a "minister of the gospel" may exclude from gross income: (1) the rental value of a home furnished to the minister as part of his or her compensation; or (2) the rental allowance paid to the minister as part of his or her compensation, to the extent that the allowance is used by him or her to rent or provide a home.

In May 2000, the U.S. Tax Court held in *Warren v. Commissioner* that the parsonage allowance exclusion is not limited to the lesser of the fair market value of the home or the amount used to provide a home. The Internal Revenue Service appealed the Tax Court ruling to the U.S. Court of Appeals for the Ninth Circuit. In March 2002, the Ninth Circuit Court asked for a "friend of the court" brief on the constitutionality, and the court's authority to consider the constitutionality, of the parsonage allowance exclusion itself. According to the House floor debate, the enrolled bill is intended to moot the case, and thereby avoid court review of the constitutionality of the provision, by resolving the dispute between the IRS and the taxpayer.

The enrolled bill would specify that the exclusion for a rental allowance is limited to the fair rental value of the home, including furnishings and appurtenances (such as a garage), plus the cost of utilities. The enrolled bill would apply to taxable years beginning after December 31, 2001. It would also apply to any taxable year beginning before January 1, 2002, for which a taxpayer either: (1) files an income tax return after April 16, 2002; or (2) filed a return before April 17, 2002, and limited the rental allowance exclusion on that return in the manner provided in the enrolled bill.

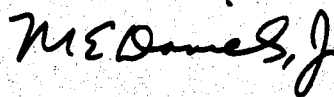
Pay-As-You-Go Scoring

H.R. 4156 would affect receipts; therefore, it would be subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The Treasury Department estimates that the enrolled bill would provide net budget savings of \$9 million over six years (FYs 2002-2007).

Conclusion and Recommendations

The Department of the Treasury recommends approval of H.R. 4156, which would "codify the Internal Revenue Service's longstanding interpretation" of current law.

We join Treasury in recommending approval of H.R. 4156, which passed the House by a vote of 408-0 and the Senate by unanimous consent.



Mitchell E. Daniels, Jr.
Director

Enclosures



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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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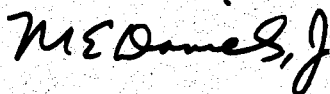
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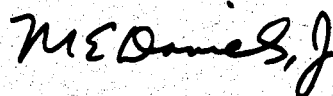
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GENERAL COUNSEL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

May 6, 2002

The Honorable Mitchell E. Daniels, Jr.
Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Dear Mr. Daniels:

This responds to your request for the views of this Department on enrolled bill H.R. 4156, the "Clergy Housing Allowance Clarification Act of 2002."

Enrolled bill H.R. 4156 would codify the Internal Revenue Service's longstanding interpretation of section 107 of the Internal Revenue Code, "Rental Value of Parsonages," as reflected in Revenue Ruling 71-280. That ruling stated the maximum allowance to be excluded under section 107(2) is an amount equal to the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities.

The Department of the Treasury supports this legislation clarifying the application of the exclusion under section 107, and recommends that the President sign the enrolled bill.

Sincerely,

David D. Aufhauser

WHITE HOUSE STAFFING MEMORANDUM

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1 comment

RESPONSE:

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Assistant to the President
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