

TITLE 26 - INTERNAL REVENUE CODE**Subtitle A - Income Taxes****CHAPTER 2 - TAX ON SELF-EMPLOYMENT INCOME****§ 1402. Definitions****(a) Net earnings from self-employment**

The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702 (a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares, and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833 (2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if

(A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and

(B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

(2) there shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest are received in the course of a trade or business as a dealer in stocks or securities;

(3) there shall be excluded any gain or loss—

(A) which is considered as gain or loss from the sale or exchange of a capital asset,

(B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 applies to such gain or loss, or

(C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither—

(i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) the deduction for net operating losses provided in section 172 shall not be allowed;

(5) if—

(A) any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, the gross income and deductions attributable to such trade or business shall be treated

- as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and
- (B)** any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;
- (6)** a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;
- (7)** the deduction for personal exemptions provided in section 151 shall not be allowed;
- (8)** an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), and section 911 (relating to citizens or residents of the United States living abroad), but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414 (e)) after the individual retires;
- (9)** the exclusion from gross income provided by section 931 shall not apply;
- (10)** there shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—
- (A)** such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and
- (B)** no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and
- (C)** such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A);
- (11)** the exclusion from gross income provided by section 911 (a)(1) shall not apply;
- (12)** in lieu of the deduction provided by section 164 (f) (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—
- (A)** the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and
- (B)** one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 for such year;
- (13)** there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707 (c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services;
- (14)** in the case of church employee income, the special rules of subsection (j)(1) shall apply;
- (15)** in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply;
- (16)** the deduction provided by section 199 shall not be allowed; and

(17) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761 (f) in determining net earnings from self-employment of such spouse.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121 (g)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than the upper limit, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66 $\frac{2}{3}$ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than the upper limit and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than the lower limit, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) applies) is not more than the upper limit, his distributive share of income described in section 702 (a)(8) derived from such trade or business may, at his option, be deemed to be an amount equal to 66 $\frac{2}{3}$ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) applies) is more than the upper limit and his distributive share (whether or not distributed) of income described in section 702 (a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit, his distributive share of income described in section 702 (a)(8) derived from such trade or business may, at his option, be deemed to be the lower limit.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (h), or by a partnership of which an individual is a member on a regular basis as defined in subsection (h), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable

year are less than the lower limit and less than 662/3 percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed the lower limit.

(b) Self-employment income

The term “self-employment income” means the net earnings from self-employment derived by an individual (other than a nonresident alien individual, except as provided by an agreement under section 233 of the Social Security Act) during any taxable year; except that such term shall not include—

- (1) in the case of the tax imposed by section 1401 (a), that part of the net earnings from self-employment which is in excess of
 - (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus
 - (ii) the amount of the wages paid to such individual during such taxable years; or
- (2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of paragraph (1), the term “wages” (A) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 3121 (1) (relating to coverage of citizens of the United States who are employees of foreign affiliates of American employers), as would be wages under section 3121 (a) if such services constituted employment under section 3121 (b), and (B) includes compensation which is subject to the tax imposed by section 3201 or 3211.¹ An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual. In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2).

(c) Trade or business

The term “trade or business”, when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include—

- (1) the performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act;
- (2) the performance of service by an individual as an employee, other than—
 - (A) service described in section 3121 (b)(14)(B) performed by an individual who has attained the age of 18,
 - (B) service described in section 3121 (b)(16),
 - (C) service described in section 3121 (b)(11), (12), or (15) performed in the United States (as defined in section 3121 (e)(2)) by a citizen of the United States, except service which constitutes “employment” under section 3121 (y),
 - (D) service described in paragraph (4) of this subsection,

- (E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act,
 - (F) service described in section 3121 (b) (20), and
 - (G) service described in section 3121 (b)(8)(B);
- (3) the performance of service by an individual as an employee or employee representative as defined in section 3231;
 - (4) the performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
 - (5) the performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or
 - (6) the performance of service by an individual during the period for which an exemption under subsection (g) is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption under subsection (e) is effective with respect to him.

(d) Employee and wages

The term “employee” and the term “wages” shall have the same meaning as when used in chapter 21 (sec. 3101 and following, relating to Federal Insurance Contributions Act).

(e) Ministers, members of religious orders, and Christian Science practitioners

(1) Exemption

Subject to paragraph (2), any individual who is

- (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or
- (B) a Christian Science practitioner, upon filing an application (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) together with a statement that either he is conscientiously opposed to, or because of religious principles he is opposed to, the acceptance (with respect to services performed by him as such minister, member, or practitioner) of any public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act) and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance, shall receive an exemption from the tax imposed by this chapter with respect to services performed by him as such minister, member, or practitioner. Notwithstanding the preceding sentence, an exemption may not be granted to an individual under this subsection if he had filed an effective waiver certificate under this section as it was in effect before its amendment in 1967.

(2) Verification of application

The Secretary may approve an application for an exemption filed pursuant to paragraph (1) only if the Secretary has verified that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption pursuant to this subsection and that the individual seeks exemption on such grounds. The Secretary (or the Commissioner of Social Security under an agreement with the Secretary) shall make such verification by such means as prescribed in regulations.

(3) Time for filing application

Any individual who desires to file an application pursuant to paragraph (1) must file such application on or before whichever of the following dates is later:

(A) the due date of the return (including any extension thereof) for the second taxable year for which he has net earnings from self-employment (computed without regard to subsections (c)(4) and (c)(5)) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4) or (c)(5); or

(B) the due date of the return (including any extension thereof) for his second taxable year ending after 1967.

(4) Effective date of exemption

An exemption received by an individual pursuant to this subsection shall be effective for the first taxable year for which he has net earnings from self-employment (computed without regard to subsections (c)(4) and (c)(5)) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4) or (c)(5), and for all succeeding taxable years. An exemption received pursuant to this subsection shall be irrevocable.

(f) Partner's taxable year ending as the result of death

In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

(g) Members of certain religious faiths**(1) Exemption**

Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter if he is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

(A) such evidence of such individual's membership in, and adherence to the tenets or teachings of, the sect or division thereof as the Secretary may require for purposes of determining such individual's compliance with the preceding sentence, and

(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person,

and only if the Commissioner of Social Security finds that—

(C) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

(D) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is reasonable in view of their general level of living, and

(E) such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

(2) Period for which exemption effective

An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1950, except that such exemption shall not apply for any taxable year—

(A) beginning (i) before the taxable year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of which the Commissioner of Social Security finds that the sect or division thereof of which such individual is a member met the requirements of subparagraphs (C) and (D), or

(B) ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Commissioner of Social Security finds that the sect or division thereof of which he is a member ceases to meet the requirements of subparagraph (C) or (D).

(3) Subsection to apply to certain church employees

This subsection shall apply with respect to services which are described in subparagraph (B) of section 3121 (b)(8) (and are not described in subparagraph (A) of such section).

(h) Regular basis

An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net earnings from self-employment, as defined in the first sentence of subsection (a), of not less than \$400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership.

(i) Special rules for options and commodities dealers

(1) In general

Notwithstanding subsection (a)(3)(A), in determining the net earnings from self-employment of any options dealer or commodities dealer, there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts.

(2) Definitions

For purposes of this subsection—

(A) Options dealer

The term “options dealer” has the meaning given such term by section 1256 (g)(8).

(B) Commodities dealer

The term “commodities dealer” means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

(C) Section 1256 contracts

The term “section 1256 contract” has the meaning given to such term by section 1256 (b).

(j) Special rules for certain church employee income

(1) Computation of net earnings

In applying subsection (a)—

(A) church employee income shall not be reduced by any deduction;

(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

(2) Computation of self-employment income

(A) Separate application of subsection (b)(2)

Paragraph (2) of subsection (b) shall be applied separately—

(i) to church employee income, and

(ii) to other net earnings from self-employment.

(B) \$100 floor

In applying paragraph (2) of subsection (b) to church employee income, “\$100” shall be substituted for “\$400”.

(3) Coordination with subsection (a)(12)

Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(12), and paragraph (1) shall be applied before determining the amount so allowable.

(4) Church employee income defined

For purposes of this section, the term “church employee income” means gross income for services which are described in section 3121 (b)(8)(B) (and are not described in section 3121 (b)(8)(A)).

(k) Codification of treatment of certain termination payments received by former insurance salesmen

Nothing in subsection (a) shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

(1) such amount is received after termination of such individual’s agreement to perform such services for such company,

(2) such individual performs no services for such company after such termination and before the close of such taxable year,

(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

(4) the amount of such payment—

(A) depends primarily on policies sold by or credited to the account of such individual during the last year of such agreement or the extent to which such policies remain in force for some period after such termination, or both, and

(B) does not depend to any extent on length of service or overall earnings from services performed for such company (without regard to whether eligibility for payment depends on length of service).

(l) Upper and lower limits

For purposes of subsection (a)—

(1) Lower limit

The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

(2) Upper limit

The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

Footnotes¹ So in original.

(Aug. 16, 1954, ch. 736, 68A Stat. 353; Sept. 1, 1954, ch. 1206, title II, § 201(a)–(c), 68 Stat. 1087; Aug. 1, 1956, ch. 836, title II, § 201(e)(2), (3), (f), (g), (i), 70 Stat. 840–842; Pub. L. 85–239, §§ 1(a), (b), 2, 5 (b), Aug. 30, 1957, 71 Stat. 521–523; Pub. L. 85–840, title IV, §§ 402(a), 403 (a), Aug. 28, 1958, 72 Stat. 1042, 1043; Pub. L. 86–778, title I, §§ 101(a)–(c), 103(k), (l), 105(c)(1), 106(b), Sept. 13, 1960, 74 Stat. 926, 927, 938, 944, 945; Pub. L. 87–64, title II, § 202(a), June 30, 1961, 75 Stat. 141; Pub. L. 88–272, title II, § 227(b)(6), Feb. 26, 1964, 78 Stat. 98; Pub. L. 88–650, § 2(a), (b), Oct. 13, 1964, 78 Stat. 1076, 1077; Pub. L. 89–97, title III, §§ 311(b)(1)–(3), 312(b), 319(a), (c), 320(b)(1), 331(a), 341(a), (b), July 30, 1965, 79 Stat. 381, 390, 391, 393, 401, 411; Pub. L. 89–368, title I, § 102(c), Mar. 15, 1966, 80 Stat. 64; Pub. L. 90–248, title I, §§ 108(b)(1), 115 (b), 118 (a), 122 (b), title V, §§ 501(a), 502 (b)(1), Jan. 2, 1968, 81 Stat. 835, 839, 841, 843, 933, 934; Pub. L. 92–5, title II, § 203(b)(1), Mar. 17, 1971, 85 Stat. 10; Pub. L. 92–336, title II, § 203(b)(1), July 1, 1972, 86 Stat. 418; Pub. L. 92–603, title I, §§ 121(b), 124 (b), 140 (b), Oct. 30, 1972, 86 Stat. 1353, 1357, 1366; Pub. L. 93–66, title II, § 203(b)(1), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, § 5(b)(1), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–368, § 10(b), Aug. 7, 1974, 88 Stat. 422; Pub. L. 94–92, title II, § 203(a), Aug. 9, 1975, 89 Stat. 465; Pub. L. 94–455, title XII, § 1207(e)(1)(B), title XIX, §§ 1901(a)(155), (b)(1)(I)(iii), (X), 1906 (b)(13)(A), Oct. 4, 1976, 90 Stat. 1707, 1789, 1791, 1792, 1834; Pub. L. 95–216, title III, § 313(b), Dec. 20, 1977, 91 Stat. 1536; Pub. L. 95–600, title VII, § 703(j)(8), Nov. 6, 1978, 92 Stat. 2941; Pub. L. 95–615, § 202(g)(5), formerly § 202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered § 202(g)(5), Pub. L. 96–222, title I, § 108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 97–34, title I, § 111(b)(3), (5), Aug. 13, 1981, 95 Stat. 194; Pub. L. 97–248, title II, § 278(a)(2), Sept. 3, 1982, 96 Stat. 559; Pub. L. 98–21, title I, § 124(c)(2), title III, §§ 321(e)(3), 322 (b)(2), 323 (b)(1), Apr. 20, 1983, 97 Stat. 90, 120, 121; Pub. L. 98–369, div. A, title I, § 102(c)(1), div. B, title VI, §§ 2603(c)(2), (d)(2), 2663 (j)(5)(B), July 18, 1984, 98 Stat. 622, 1129, 1130, 1171; Pub. L. 99–272, title XIII, § 13205(a)(2)(B), Apr. 7, 1986, 100 Stat. 315; Pub. L. 99–509, title IX, § 9002(b)(1)(B), Oct. 21, 1986, 100 Stat. 1971; Pub. L. 99–514, title III, § 301(b)(12), title XII, § 1272(d)(8), (9), title XVII, § 1704(a)(1), (2), title XVIII, §§ 1882(a), (b)(1), 1883 (a)(11)(A), Oct. 22, 1986, 100 Stat. 2218, 2594, 2779, 2914, 2916; Pub. L. 100–203, title IX, § 9022(b), Dec. 22, 1987, 101 Stat. 1330–295; Pub. L. 100–647, title III, § 3043(c)(1), title VIII, § 8007(c), Nov. 10, 1988, 102 Stat. 3642, 3783; Pub. L. 101–239, title X, § 10204(a)(1), Dec. 19, 1989, 103 Stat. 2474; Pub. L. 101–508, title V, §§ 5123(a)(3), 5130 (a)(2), title XI, § 11331(b), Nov. 5, 1990, 104 Stat. 1388–284, 1388–289, 1388–467; Pub. L. 103–66, title XIII, § 13207(b), Aug. 10, 1993, 107 Stat. 468; Pub. L. 103–296, title I, § 108(h)(1), title III, § 319(a)(4), Aug. 15, 1994, 108 Stat. 1487, 1534; Pub. L. 104–188, title I, § 1456(a), Aug. 20, 1996, 110 Stat. 1818; Pub. L. 105–34, title IX, § 922(a), Aug. 5, 1997, 111 Stat. 879; Pub. L. 108–203, title IV, § 425(b), Mar. 2, 2004, 118 Stat. 536; Pub. L. 108–357, title I, § 102(d)(7), Oct. 22, 2004, 118 Stat. 1429; Pub. L. 110–28, title VIII, § 8215(b)(1), May 25, 2007, 121 Stat. 193; Pub. L. 110–234, title XV, §§ 15301(a), 15352 (a), May 22, 2008, 122 Stat. 1501, 1525; Pub. L. 110–246, § 4(a), title XV, §§ 15301(a), 15352 (a), June 18, 2008, 122 Stat. 1664, 2263, 2287.)

References in Text

The Social Security Act, referred to in subsecs. (a)(1), (b), (c)(1), (2)(E), (e)(1), (g)(1), and (l)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Titles II and XVIII of the Act are classified generally to subchapters II (§ 401 et seq.) and XVIII (§ 1395 et seq.) of Title 42. Sections 202, 203, 213, 218, 222, 223, 230, and 233 of the Act are classified to sections 402, 403, 413, 418, 422, 423, 430, and 433, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Federal Insurance Contributions Act, referred to in subsec. (d), is act Aug. 16, 1954, ch. 736, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§ 3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

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Codification

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Amendments

2008—Subsec. (a). Pub. L. 110–246, § 15352(a)(1), in concluding provisions, substituted “the upper limit” for “\$2,400” wherever appearing and “the lower limit” for “\$1,600” wherever appearing.

Subsec. (a)(1). Pub. L. 110–246, § 15301(a), inserted “, and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833 (2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act” after “crop shares”.

Subsec. (l). Pub. L. 110–246, § 15352(a)(2), added subsec. (l).

2007—Subsec. (a)(17). Pub. L. 110–28 added par. (17).

2004—Subsec. (a)(5)(A). Pub. L. 108–203 substituted “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and” for “all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and”.

Subsec. (a)(16). Pub. L. 108–357 added par. (16).

1997—Subsec. (k). Pub. L. 105–34 added subsec. (k).

1996—Subsec. (a)(8). Pub. L. 104–188 inserted before semicolon at end “, but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414 (e)) after the individual retires”.

1994—Subsec. (c)(1). Pub. L. 103–296, § 108(h)(1), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

Subsec. (c)(2)(C). Pub. L. 103–296, § 319(a)(4), inserted at end “except service which constitutes ‘employment’ under section 3121 (y).”.

Subsecs. (c)(2)(E), (e)(2), (g)(1), (2)(A), (B). Pub. L. 103–296, § 108(h)(1), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1993—Subsec. (b). Pub. L. 103–66, § 13207(b)(1)(C), (D), in concluding provisions, inserted “and” after “section 3121 (b),” and struck out “and (C) includes, but only with respect to the tax imposed by section 1401 (b), remuneration paid for medicare qualified government employment (as defined in section 3121 (u)(3)) which is subject to the taxes imposed by sections 3101 (b) and 3111 (b)” after “section 3201 or 3211.”.

Subsec. (b)(1). Pub. L. 103–66, § 13207(b)(1)(A), (B), substituted “in the case of the tax imposed by section 1401 (a), that part of the net” for “that part of the net” and “contribution and benefit base (as determined under section 230 of the Social Security Act)” for “applicable contribution base (as determined under subsection (k))”.

Subsec. (k). Pub. L. 103–66, § 13207(b)(2), struck out subsec. (k) which defined parameters of the applicable contribution base under this chapter.

1990—Subsec. (a). Pub. L. 101–508, § 5123(a)(3), struck out last undesignated par. which read as follows: “Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).”

Subsec. (b). Pub. L. 101–508, § 5130(a)(2), amended directory language of Pub. L. 98–21, § 322(b)(2). See 1983 Amendment note below.

Subsec. (b)(1)(i). Pub. L. 101–508, § 11331(b)(1), substituted “the applicable contribution base (as determined under subsection (k))” for “the contribution and benefit base (as determined under section 230 of the Social Security Act)”.

Subsec. (k). Pub. L. 101–508, § 11331(b)(2), added subsec. (k).

1989—Subsec. (g)(3). Pub. L. 101–239 substituted “to apply” for “not to apply” in heading and “shall apply” for “shall not apply” in text.

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1988—Subsec. (a)(15). Pub. L. 100–647, § 3043(c)(1), added par. (15).

Subsec. (g)(2) to (5). Pub. L. 100–647, § 8007(c), struck out par. (2) which related to time for filing applications, struck out par. (4) which related to application by fiduciaries or survivors, and redesignated pars. (3) and (5) as (2) and (3), respectively.

1987—Subsec. (a). Pub. L. 100–203 inserted par. at end relating to income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation.

1986—Subsec. (a)(8). Pub. L. 99–514, § 1272(d)(8), inserted “and” after “of the employer,” and struck out “and section 931 (relating to income from sources within possessions of the United States)” after “living abroad”.

Subsec. (a)(9). Pub. L. 99–514, § 1272(d)(9), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “the term ‘possession of the United States’ as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa;”.

Subsec. (a)(14). Pub. L. 99–514, § 1882(b)(1)(B)(i), amended par. (14) generally. Prior to amendment, par. (14) read as follows: “with respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

“(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

“(B) the provisions of subsection (b)(2) shall not apply; and

“(C) if the amount of such remuneration from an employer for the taxable year is less than \$100, such remuneration from that employer shall not be included in self-employment income.”

Subsec. (b). Pub. L. 99–514, § 1882(b)(1)(B)(ii), (iii), substituted “paragraph” for “clause” in second sentence and inserted at end “In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2).”

Pub. L. 99–509 struck out “under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or” after “services included” in second sentence.

Pub. L. 99–272 substituted “medicare qualified government employment (as defined in section 3121 (u)(3))” for “medicare qualified Federal employment (as defined in section 3121 (u)(2))”.

Subsec. (c)(2)(G). Pub. L. 99–514, § 1883(a)(11)(A), realigned margin of subpar. (G).

Subsec. (e)(1). Pub. L. 99–514, § 1704(a)(1), (2)(A), substituted “Subject to paragraph (2), any individual” for “Any individual” and inserted “and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance”.

Subsec. (e)(2) to (4). Pub. L. 99–514, § 1704(a)(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (g)(5). Pub. L. 99–514, § 1882(a), added par. (5).

Subsec. (i)(1). Pub. L. 99–514, § 301(b)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In determining the net earnings from self-employment of any options dealer or commodities dealer—

“(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer’s activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

“(B) the deduction provided by section 1202 shall not apply.”

Subsec. (j). Pub. L. 99–514, § 1882(b)(1)(A), added subsec. (j).

1984—Subsec. (a)(14). Pub. L. 98–369, § 2603(d)(2), added par. (14).

Subsec. (c)(1), (2)(E). Pub. L. 98–369, § 2663(j)(5)(B), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (c)(2)(G). Pub. L. 98–369, § 2603(c)(2), added subpar. (G).

Subsec. (g)(1), (3)(A), (B). Pub. L. 98–369, § 2663(j)(5)(B), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (i). Pub. L. 98–369, § 102(c)(1), added subsec. (i).

1983—Subsec. (a)(11). Pub. L. 98–21, § 323(b)(1), struck out “in the case of an individual described in section 911 (d)(1)(B),” before “the exclusion”.

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Subsec. (a)(12), (13). Pub. L. 98–21, § 124(c)(2), added par. (12) and redesignated former par. (12) as (13).

Subsec. (b). Pub. L. 98–21, § 322(b)(2), as amended by Pub. L. 101–508, § 5130(a)(2), inserted “, except as provided by an agreement under section 233 of the Social Security Act” in text preceding par. (1).

Pub. L. 98–21, § 321(e)(3), substituted “employees of foreign affiliates of American employers” for “employees of foreign subsidiaries of domestic corporations” in cl. (A) of provisions following par. (2).

1982—Subsec. (b). Pub. L. 97–248 struck out “and” before “(B)” and inserted “, and (C) includes, but only with respect to the tax imposed by section 1401 (b), remuneration paid for medicare qualified Federal employment (as defined in section 3121 (u)(2)) which is subject to the taxes imposed by sections 3101 (b) and 3111 (b)”.

1981—Subsec. (a)(8). Pub. L. 97–34, § 111(b)(3), substituted “relating to citizens or residents of the United States living abroad” for “relating to income earned by employees in certain camps”.

Subsec. (a)(11). Pub. L. 97–34, § 111(b)(5), substituted “in the case of an individual described in section 911 (d)(1)(B), the exclusion from gross income provided by section 911 (a)(1) shall not apply” for “in the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911 (a)(2) shall not apply”.

1978—Subsec. (a). Pub. L. 95–615 substituted “(relating to income earned by employees in certain camps)” for “(relating to earned income from sources without the United States)” in par. (8).

Pub. L. 95–600, § 703(j)(8)(A), substituted “subsection (h)” for “subsection (i)” wherever appearing in last par.

Subsec. (c)(6). Pub. L. 95–600, § 703(j)(8)(B), substituted “subsection (g)” for “subsection (h)”.

1977—Subsec. (a)(12). Pub. L. 95–216 added par. (12).

1976—Subsec. (a). Pub. L. 94–455, §§ 1901(b)(1) (I)(iii), (X), 1906 (b)(13)(A), substituted, in provisions preceding par. (1) and in two places in cl. (iv) of provisions extending the application of provisions relating to agricultural labor to trade or business carried on by individuals, self-employed or in partnership, “section 702 (a)(8)” for “section 702 (a)(9)” and struck out in par. (2) “(other than interest described in section 35)” after “unless such dividends and interest” and in par. (10) “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94–455, § 1901(a)(155)(A), among other changes, struck out provisions spelling out fixed Social Security contributions and benefit base limits on wages paid during taxable years between 1955 through 1974.

Subsec. (c)(2)(F). Pub. L. 94–455, § 1207(e)(1)(B), added subpar. (F).

Subsec. (g). Pub. L. 94–455, §§ 1901(a)(155)(B), (C), 1906 (b)(13)(A), redesignated subsec. (h) as (g), and as so redesignated, struck out in par. (1)(A) “or his delegate” after “Secretary” and in par. (2) provisions relating to individuals who have self-employment income for taxable years ending before Dec. 31, 1967, on or before Dec. 31, 1968, and substituted in par. (2) reference to for which the individual has self-employment income (determined without regard to this subsection or subsection (c)(6)) for reference to ending on or after Dec. 31, 1967 for which he has self-employment income (as so determined). Former subsec. (g), which related to treatment of certain remunerations erroneously reported as net earnings from self-employment, was struck out.

Subsecs. (h), (i). Pub. L. 94–455, § 1901(a)(155)(B), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

1975—Subsec. (b). Pub. L. 94–92 struck out from item B of second sentence the limitation of “wages” to include “compensation” solely with respect to the tax imposed by section 1401 (b).

1974—Subsec. (a)(1). Pub. L. 93–368 inserted “(as determined without regard to any activities of an agent of such owner or tenant)” after “material participation by the owner or tenant” wherever appearing.

1973—Subsec. (b)(1)(H). Pub. L. 93–233 substituted “\$13,200” for “\$12,600”.

Pub. L. 93–66 substituted “\$12,600” for “\$12,000”.

1972—Subsec. (a)(8), (11). Pub. L. 92–603, §§ 121(b)(1), 124 (b), 140 (b), in par. (8), struck out limitation under which provisions authorizing the computation of net earnings without regard to sections 911 and 931 were limited to citizens of the United States performing religious service as employees of an American employer or as ministers in a foreign country having a congregation predominantly of citizens of the United States, added par. (11), and extended the application of provisions relating to agricultural labor to trade or business carried on by individuals, self-employed or in partnership, with certain exceptions.

Subsec. (b)(1)(F). Pub. L. 92–336, § 203(b)(1)(A), inserted “and before 1973” after “1971”.

Subsec. (b)(1)(G) to (I). Pub. L. 92–336, § 203(b)(1)(B), added subpars. (G) to (I).

Subsec. (i). Pub. L. 92–603, § 121(b)(2), added subsec. (i).

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1971—Subsec. (b)(1)(E). Pub. L. 92–5, § 203(b)(1)(A), inserted “and beginning before 1972” after “1967” and substituted “; and” for “; or”.

Subsec. (b)(1)(F). Pub. L. 92–5, § 203(b)(1)(B), added subpar. (F).

1968—Subsec. (a)(10). Pub. L. 90–248, § 118(a), added par. (10).

Subsec. (b). Pub. L. 90–248, § 502(b)(1), designated existing provisions of second sentence respecting “wages” as item “A” and added item “B”.

Subsec. (b)(1)(D). Pub. L. 90–248, § 108(b)(1)(A), inserted “and before 1968” after “1965”.

Subsec. (b)(1)(E). Pub. L. 90–248, § 108(b)(1)(B), added subpar. (E).

Subsec. (c). Pub. L. 90–248, § 115(b)(1), substituted “such order performed by an individual unless an exemption under subsection (e) is effective with respect to him” for “such order performed by an individual during the period for which a certificate filed by him under subsection (e) is in effect” in last sentence.

Subsec. (c)(1). Pub. L. 90–248, § 122(b)(1), excepted from exclusion from definition of “trade or business” the functions of a public office of a State or a political division thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered by such State and the Secretary pursuant to section 218 of the Social Security Act [section 418 of Title 42, The Public Health and Welfare].

Subsec. (c)(2)(E). Pub. L. 90–248, § 122(b)(2), added subpar. (E).

Subsec. (e). Pub. L. 90–248, § 115(b)(2), substituted provisions allowing clergymen, members of religious orders who have not taken a vow of poverty, and Christian Science practitioners to secure an exemption from social security self-employment tax upon meeting requirements of pars. (1) to (3) respecting such exemption, time for filing application, and effective date of exemption for provisions of former pars. (1) to (5) permitting such persons to secure social security coverage by filing a waiver certificate, prescribing time for filing certificate, effective date of certificate treatment of certain remuneration paid in 1955 and 1956 as wages, and optional provision for certain certificates filed on or before April 15, 1967.

Subsec. (h)(2). Pub. L. 90–248, § 501(a), substituted “December 31, 1967” and “December 31, 1968” for “December 31, 1965” and “April 15, 1966”, respectively, in subpar. (A) and “December 31, 1967” for “December 31, 1965” in subpar. (B) and inserted in such subpar. (B) exception provision as to when an application shall be deemed timely filed.

1966—Subsec. (e)(3)(E). Pub. L. 89–368 added subpar. (E).

1965—Subsec. (a). Pub. L. 89–97, § 312(b), substituted “2,400” for “\$1,800” in cls. (i) to (iv) and “\$1,600” for “\$1,200” in cls. (ii) and (iv) of second sentence following par. (9), wherever appearing.

Subsec. (b)(1)(C). Pub. L. 89–97, § 320(b)(1)(C), inserted “and before 1966” after “1958” and substituted “and” for “or” after the semicolon.

Subsec. (b)(1)(D). Pub. L. 89–97, § 320(b)(1)(B), added subpar. (D).

Subsec. (c). Pub. L. 89–97, §§ 311(b)(1), (2), 319 (a), struck out from par. (5) “doctor of medicine, or” before and “; or the performance of such service by a partnership” after “Christian Science practitioner,” added par. (6), and consolidated into one sentence former last two sentences.

Subsec. (e)(1). Pub. L. 89–97, § 311(b)(3)(A), substituted “extended to service described in subsection (c)(4) or (c)(5) performed by him” for “extended to service described in subsection (c)(4), or service described in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be performed by him”.

Subsec. (e)(2)(A). Pub. L. 89–97, § 311(b)(3)(B), substituted “(computed without regard to subsections (c)(4) and (c)(5) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4) or (c)(5)” for “(computed, in the case of an individual referred to in paragraph (1)(A), without regard to subsection (c)(4), and, in the case of an individual referred to in paragraph (1)(B), without regard to subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4), or from the performance of service described in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be”.

Subsec. (e)(2)(B). Pub. L. 89–97, § 341(a), substituted “his second taxable year ending after 1963” for “his second taxable year ending after 1962”.

Subsec. (e)(3)(D). Pub. L. 89–97, § 341(b), added subpar. (D).

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Subsec. (e)(5). Pub. L. 89-97, § 331(a), extended applicability of section to earnings in taxable years beyond those ending before 1960, extended until April 15, 1966, the last date for filing a certificate by an individual and until Apr. 15, 1967, the last date for filing a supplemental certificate by an individual, provided for filing of the certificate on or before Apr. 15, 1967, if the individual died on or before April 15, 1966, and extended to Apr. 15, 1967, the date on or before which the tax under section 1401 had been paid, or the overpayment, including interest under section 6611, had been repaid.

Subsec. (e)(6). Pub. L. 89-97, § 331(a), struck out par. (6) which dealt with filing of certificates by fiduciaries or survivors on or before April 15, 1962.

Subsec. (h). Pub. L. 89-97, § 319(c), added subsec. (h).

1964—Subsec. (a)(3)(B). Pub. L. 88-272 inserted reference to iron ore.

Subsec. (e)(2)(B). Pub. L. 88-650, § 2(a), substituted “his second taxable year ending after 1962” for “his second taxable year ending after 1959”.

Subsec. (e)(3)(C). Pub. L. 88-650, § 2(b), added subpar. (C).

1961—Subsec. (e)(6). Pub. L. 87-64 added par. (6).

1960—Subsec. (a). Pub. L. 86-778, § 103(k), added par. (9) and inserted references to paragraph (9) in cls. (v) and (vi) of last sentence.

Subsec. (b). Pub. L. 86-778, § 103(l), substituted “the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa” for “the Virgin Islands or a resident of Puerto Rico” in last sentence.

Subsec. (c)(2). Pub. L. 86-778, § 106(b), excluded service described in section 3121 (b)(11), (12), or (15) performed in the United States (as defined in section 3121 (e)(2)) by a citizen of the United States.

Subsec. (e)(2)(B). Pub. L. 86-778, § 101(a), substituted “1959” for “1956”.

Subsec. (e)(3). Pub. L. 86-778, § 101(b), designated existing provisions as cl. (A), struck out provisions which related to certificates for prior taxable years which have now become inapplicable, and added cl. (B).

Subsec. (e)(5). Pub. L. 86-778, § 101(c), added par. (5).

Subsec. (g). Pub. L. 86-778, § 105(c)(1), added subsec. (g).

1958—Subsec. (b)(1). Pub. L. 85-840, § 402(a), increased limitation on self-employment income subject to tax, for taxable years ending after 1958, from \$4,200 to \$4,800.

Subsec. (f). Pub. L. 85-840, § 403(a), added subsec. (f).

1957—Subsec. (a)(8). Pub. L. 85-239, § 5(b), permitted computation of net earnings without regard to sections 107 and 119 of this title.

Subsec. (e)(2). Pub. L. 85-239, § 1(a), permitted a person to file a certificate on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.

Subsec. (e)(3). Pub. L. 85-239, § 1(b), provided for the effective date of certificates filed after August 30, 1957, but on or before the due date of the return (including any extension thereof) for the second taxable year ending after 1956, for certificates filed on or before August 30, 1957, which are effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, and for certificates filed after the due date of the return (including any extension thereof) for the second taxable year ending after 1956.

Subsec. (e)(4). Pub. L. 85-239, § 2, added par. (4).

1956—Subsec. (a). Act Aug. 1, 1956, § 201(i), amended generally last two sentences to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than \$1,800 to deem their net earnings to be 662/3 percent of such gross income, and those whose gross income is more than \$1,800 and the net earnings are less than \$1,200, to deem the net earnings to be \$1,200, and to provide for the computation of net earnings for members of partnerships.

Subsec. (a)(1). Act Aug. 1, 1956, § 201(e)(2), struck out from the exclusion income derived by an owner or tenant of land if such income is derived under an arrangement with another individual for the production by such other individual of agricultural or horticultural commodities if such arrangement provides for material participation by the owner or tenant in the production or the management of the production of such commodities, and there is material participation by the owner or tenant with respect to any such commodity.

Subsec. (a)(8)(B). Act Aug. 1, 1956, § 201(g), included citizens of the United States who are ministers in foreign countries and have congregations composed predominantly of citizens of the United States.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscp.html>).

Subsec. (c)(2). Act Aug. 1, 1956, § 201(e)(3), included within “trade or business” service described in section 3121 (b)(16) of this title.

Subsec. (c)(5). Act Aug. 1, 1956, § 201(f), struck out exclusion of lawyers, dentists, osteopaths, veterinarians, chiropractors, naturopaths, and optometrists.

1954—Subsec. (a). Act Sept. 1, 1954, § 201(a), (c)(4), in par. (1) clarified the term rentals to indicate that it includes rentals paid in the form of crop shares, struck out par. (2), redesignated pars. (3) to (8) as (2) to (7), respectively, added a new par. (8), and inserted provisions at end establishing an optional method of reporting income for self-employed farmers.

Subsec. (b). Act Sept. 1, 1954, § 201(b), increased the limitation on self-employment income subject to tax, for taxable years ending after 1954, from \$3,600 to \$4,200 and included as “wages”, for purposes of computing “self-employment income,” remuneration of United States citizens employed by a foreign subsidiary of a domestic corporation which has agreed to have the Social Security insurance system extended to service performed by such citizens.

Subsec. (c). Act Sept. 1, 1954, § 201(c)(2), inserted two sentences at end making the provisions of par. (4) inapplicable to service performed during the period for which a certificate filed under subsec. (e) is in effect.

Subsec. (c)(2). Act Sept. 1, 1954, § 201(c)(1), inserted “and other than service described in paragraph (4) of this subsection” after “18”.

Subsec. (c)(5). Act Sept. 1, 1954, § 201(c)(5), struck out exclusions from self-employment tax in the case of architects, certified public accountants, accountants registered or licensed as accountants under State or municipal law, full-time practicing public accountants, funeral directors and professional engineers.

Subsec. (e). Act Sept. 1, 1954, § 201(c)(3), added subsec. (e).

Effective Date of 2008 Amendment

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XV, § 15301(c), May 22, 2008, 122 Stat. 1501, and Pub. L. 110–246, § 4(a), title XV, § 15301(c), June 18, 2008, 122 Stat. 1664, 2263, provided that: “The amendments made by this section [amending this section and section 411 of Title 42, The Public Health and Welfare] shall apply to payments made after December 31, 2007.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110–234, title XV, § 15352(c), May 22, 2008, 122 Stat. 1526, and Pub. L. 110–246, § 4(a), title XV, § 15352(c), June 18, 2008, 122 Stat. 1664, 2288, provided that: “The amendments made by this section [amending this section and sections 411 and 412 of Title 42, The Public Health and Welfare] shall apply to taxable years beginning after December 31, 2007.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Effective Date of 2007 Amendment

Amendment by Pub. L. 110–28 applicable to taxable years beginning after Dec. 31, 2006, see section 8215(c) of Pub. L. 110–28, set out as a note under section 761 of this title.

Effective Date of 2004 Amendment

Amendment by Pub. L. 108–357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108–357, set out as a note under section 56 of this title.

Effective Date of 1997 Amendment

Section 922(c) of Pub. L. 105–34 provided that: “The amendments made by this section [amending this section and section 411 of Title 42, The Public Health and Welfare] shall apply to payments after December 31, 1997.”

Effective Date of 1996 Amendment

Section 1456(b) of Pub. L. 104–188 provided that: “The amendments made by this section [amending this section] shall apply to years beginning before, on, or after December 31, 1994.”

Effective Date of 1994 Amendment

Amendment by section 108(h)(1) of Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

Section 319(c) of Pub. L. 103–296 provided that: “The amendments made by this section [amending this section, sections 3102, 3121, and 3122 of this title, and sections 410 and 411 of Title 42, The Public Health and Welfare] shall apply with respect to service performed after the calendar quarter following the calendar quarter in which the date of the enactment of this Act [Aug. 15, 1994] occurs.”

Effective Date of 1993 Amendment

Section 13207(e) of Pub. L. 103–66 provided that: “The amendments made by this section [amending this section and sections 3121, 3122, 3125, 3231, and 6413 of this title] shall apply to 1994 and later calendar years.”

Effective Date of 1990 Amendment

Amendment by section 5123(a)(3) of Pub. L. 101–508 applicable with respect to income received for services performed in taxable years beginning after Dec. 31, 1990, see section 5123(b) of Pub. L. 101–508, set out as a note under section 403 of Title 42, The Public Health and Welfare.

Section 5130(b) of Pub. L. 101–508 provided that: “The amendments made by subsection (a) [amending this section, section 3509 of this title, and sections 408, 409, and 411 of Title 42] shall be effective as if included in the enactment of the provision to which it relates.”

Section 11331(e) of Pub. L. 101–508 provided that: “The amendments made by this section [amending this section and sections 3121, 3122, 3125, 3231, and 6413 of this title] shall apply to 1991 and later calendar years.”

Effective Date of 1989 Amendment

Section 10204(a)(2) of Pub. L. 101–239 provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to taxable years beginning after December 31, 1989.”

Effective Date of 1988 Amendment

Amendment by section 3043(c)(1) of Pub. L. 100–647 applicable to all periods beginning before, on, or after Nov. 10, 1988, with no inference created as to existence or nonexistence or scope of any exemption from tax for income derived from fishing rights secured as of Mar. 17, 1988, by any treaty, law, or Executive Order, see section 3044 of Pub. L. 100–647, set out as an Effective Date note under section 7873 of this title.

Section 8007(d) of Pub. L. 100–647 provided that: “The amendments made by subsection (a) [enacting section 3127 of this title and renumbering former section 3127 of this title as section 3128] shall apply to wages paid after December 31, 1988. The amendments made by subsection (b) [amending section 402 of Title 42, The Public Health and Welfare] shall apply to benefits paid for (and items and services furnished in) months after December 1988. The amendments made by subsection (c) [amending this section] shall apply to applications for exemptions filed on or after the date of the enactment of this Act [Nov. 10, 1988].”

Effective Date of 1987 Amendment

Section 9022(c) of Pub. L. 100–203 provided that: “The amendments made by this section [amending this section and section 411 of Title 42, The Public Health and Welfare] shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.”

Effective Date of 1986 Amendments

Amendment by section 301(b)(12) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99–514, set out as a note under section 62 of this title.

Amendment by section 1272(d)(8), (9) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99–514, set out as a note under section 931 of this title.

Section 1704(a)(3) of Pub. L. 99–514 provided that: “The amendments made by paragraphs (1) and (2) [amending this section] shall apply to applications filed after December 31, 1986.”

Section 1882(b)(3) of Pub. L. 99–514 provided that: “The amendments made by this subsection [amending this section and section 411 of Title 42, The Public Health and Welfare] shall apply to remuneration paid or derived in taxable years beginning after December 31, 1985.”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Amendment by Pub. L. 99–509 effective, except as otherwise provided, with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to section 418 (e)(2) of Title 42, The Public Health and Welfare, see section 9002(d) of Pub. L. 99–509, set out as a note under section 418 of Title 42.

Amendment by Pub. L. 99–272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99–272, set out as a note under section 3121 of this title.

Effective Date of 1984 Amendment

Amendment by section 102(c)(1) of Pub. L. 98–369 applicable to taxable years beginning after July 18, 1984, except as otherwise provided, see section 102(f)(3), (g) of Pub. L. 98–369, set out as a note under section 1256 of this title.

Amendment by section 2603(c)(2) of Pub. L. 98–369 applicable to service performed after Dec. 31, 1983, see section 2603(e) of Pub. L. 98–369, set out as a note under section 410 of Title 42, The Public Health and Welfare.

Amendment by section 2663(j)(5)(B) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98–369, set out as a note under section 401 of Title 42.

Effective Date of 1983 Amendment

Amendment by section 124(c)(2) of Pub. L. 98–21 applicable to taxable years beginning after Dec. 31, 1989, see section 124(d)(2) of Pub. L. 98–21, set out as a note under section 1401 of this title.

Amendment by section 321(e)(3) of Pub. L. 98–21 applicable to agreements entered into after Apr. 20, 1983, except that at the election of any American employer such amendment shall also apply to any agreement entered into on or before Apr. 20, 1983, see section 321(f) of Pub. L. 98–21 set out as a note under section 406 of this title.

Amendment by section 322(b)(2) of Pub. L. 98–21 effective for taxable years beginning on or after Apr. 20, 1983, see section 322(c) of Pub. L. 98–21 set out as a note under section 3121 of this title.

Section 323(c)(2) of Pub. L. 98–21 provided that: “Except as provided in subsection (b)(2)(B) [amending section 411 of Title 42, The Public Health and Welfare, effective with respect to taxable years beginning after Dec. 31, 1981, and before Jan. 1, 1984], the amendments made by subsection (b) [amending this section and section 411 of Title 42] shall apply to taxable years beginning after December 31, 1983.”

Effective Date of 1982 Amendment

Amendment by Pub. L. 97–248 applicable to remuneration paid after Dec. 31, 1982, see section 278(c)(1) of Pub. L. 97–248, set out as a note under section 3121 of this title.

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97–34, set out as a note under section 911 of this title.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95–600, set out as a note under section 46 of this title.

Effective Date of 1978 Amendment; Election of Prior Law

Amendment by Pub. L. 95–615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95–615, set out as an Effective Date of 1978 Amendment note under section 911 of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–216 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 313(c) of Pub. L. 95–216, set out as a note under section 411 of Title 42, The Public Health and Welfare.

Effective Date of 1976 Amendment

Amendment by section 1207(e)(1)(B) of Pub. L. 94–455 applicable to taxable years ending after Dec. 31, 1971, see section 1207(f)(4) of Pub. L. 94–455, set out as a note under section 3121 of this title.

Amendment by section 1901(a)(155), (b)(1)(I)(iii), (X) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Effective Date of 1975 Amendment

Section 203(c) of Pub. L. 94–92 provided that: “The amendments made by this section [amending this section and section 3231 of this title] shall be effective January 1, 1975, and shall apply only with respect to compensation paid for services rendered on or after that date.”

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–368 applicable with respect to taxable years beginning after Dec. 31, 1973, see section 10(c) of Pub. L. 93–368, set out as a note under section 411 of Title 42, The Public Health and Welfare.

Effective Date of 1973 Amendments

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of Title 42.

Effective Date of 1972 Amendments

Amendment by Pub. L. 92–603 applicable with respect to taxable years beginning after Dec. 31, 1972, see sections 121(c), 124(c), and 140(c) of Pub. L. 92–603, set out as notes under section 411 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 92–336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of Title 42.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92–5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Effective Date of 1968 Amendment

Amendment by section 108(b)(1) of Pub. L. 90–248 applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Section 115(c) of Pub. L. 90–248 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 411 of Title 42] shall apply only with respect to taxable years ending after 1967.”

Section 118(c) of Pub. L. 90–248 provided that: “The amendments made by this section [amending this section and section 411 of Title 42] shall apply only with respect to taxable years ending on or after December 31, 1967.”

Section 122(c) of Pub. L. 90–248 provided that:

“(1) The amendments made by subsections (a) and (b) of this section [amending this section and section 411 of Title 42] shall apply with respect to fees received after 1967.

“(2) Notwithstanding the provisions of subsections (a) and (b) of this section [amending this section and section 411 of Title 42], any individual who in 1968 is in a position to which the amendments made by such subsections apply may make an irrevocable election not to have such amendments apply to the fees he receives in 1968 and every year thereafter, if on or before the due date of his income tax return for 1968 (including any extensions thereof) he files with the Secretary of the Treasury or his delegate, in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe, a certificate of election of exemption from such amendments.”

Section 501(b) of Pub. L. 90–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1950. For such purpose, chapter 2 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as applying to all taxable years beginning after such date.”

Section 502(b)(2) of Pub. L. 90–248 provided that: “The amendments made by paragraph (1) [amending this section] shall be effective only with respect to taxable years ending on or after December 31, 1968.”

Effective Date of 1966 Amendment

Amendment by Pub. L. 89–368 applicable with respect to taxable years beginning after December 31, 1966, see section 102(d) of Pub. L. 89–368, set out as a note under section 6654 of this title.

Effective Date of 1965 Amendment

Amendment by section 311 (b)(1)–(3) of Pub. L. 89–97 applicable only with respect to taxable years ending on or after Dec. 31, 1965, see section 311(c) of Pub. L. 89–97, set out as a note under section 410 of Title 42, The Public Health and Welfare.

Amendment by section 312(b) of Pub. L. 89–97 applicable only with respect to taxable years beginning after Dec. 31, 1965, see section 312(c) of Pub. L. 89–97, set out as a note under section 411 of Title 42.

Section 319(e) of Pub. L. 89–97, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section and sections 402 and 411 of Title 42] shall apply with respect to taxable years beginning after December 31, 1950. For such purpose, chapter 2 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as applying to all taxable years beginning after such date.”

Amendment by section 320(b)(1) of Pub. L. 89–97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of this title.

Section 331(d) of Pub. L. 89–97, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section] shall be applicable (except as otherwise specifically provided therein) only to certificates with respect to which supplemental certificates are filed pursuant to section 1402(e)(5)(A) of such Code after the date of the enactment of this Act [July 30, 1965], and to certificates filed pursuant to section 1402 (e)(5)(B) after such date; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42] for the month in which this Act is enacted [July 1965] or any prior month shall be payable or increased by reason of such amendments, and no lump sum death payment under such title [section 401 et seq. of Title 42] shall be payable or increased by reason of such amendments in the case of any individual who died prior to the date of the enactment of this Act [July 30, 1965]. The provisions of section 1402(e)(5) and (6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] which were in effect before the date of enactment of this Act shall be applicable with respect to any certificate filed pursuant thereto before such date if a supplemental certificate is not filed with respect to such certificate as provided in this section.”

Section 341(c) of Pub. L. 89–97, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall be applicable only with respect to certificates filed pursuant to section 1402(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after the date of the enactment of this Act [July 30, 1965]; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42] for the month in which this Act is enacted [July 1965] or any prior month shall be payable or increased by reason of such amendments.”

Effective Date of 1964 Amendments

Section 2(c) of Pub. L. 88–650, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall be applicable only with respect to certificates filed pursuant to section 1402(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after the date of the enactment of this Act [Oct. 13, 1964]; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare] for the month in which this Act [Oct. 1964] is enacted or any prior month shall be payable or increased by reason of such amendments.”

Amendment by Pub. L. 88–272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88–272, set out as a note under section 272 of this title.

Effective Date of 1961 Amendment

Section 202(b) of Pub. L. 87–64 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [June 30, 1961]; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare] for the month in which this Act is enacted or any prior month shall be payable or increased by reason of such amendment, and no lump-sum death payment under such title shall be payable or increased by reason of such amendment in the case of any individual who died prior to the date of enactment of this Act [June 30, 1961].”

Effective Date of 1960 Amendment

Section 101(f) of Pub. L. 86–778, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section] shall be applicable (except as otherwise specifically indicated therein) only with respect to certificates (and supplemental certificates) filed pursuant to section 1402(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after the date of the enactment of this Act [Sept. 13, 1960]; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare] for the month in which this Act is enacted or any prior month shall be payable or increased by

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

reason of such amendments, and no lump-sum death payment under such title shall be payable or increased by reason of such amendments in the case of any individual who died prior to the date of the enactment of this Act [Sept. 13, 1960].”

Amendment by section 103(k) of Pub. L. 86–778 applicable only in the case of taxable years beginning after 1960, except that, insofar as such enactment involves the nonapplication of section 932 of this title to the Virgin Islands for purposes of section 1401 et seq. of this title and section 411 of Title 42, such enactment shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and section 411 of Title 42 are applicable, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42.

Amendment by section 103(l) of Pub. L. 86–778 applicable only in the case of taxable years beginning after 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42.

Amendment by section 106(b) of Pub. L. 86–778 applicable only with respect to taxable years ending on or after Dec. 31, 1960, see section 106(c) of Pub. L. 86–778, set out as a note under section 411 of Title 42.

Effective Date of 1958 Amendment

Section 403(b) of Pub. L. 85–840, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply only with respect to individuals who die after the date of the enactment of this Act [Aug. 28, 1958].

“(2) In the case of an individual who died after 1955 and on or before the date of the enactment of this Act [Aug. 28, 1958], the amendment made by subsection (a) [amending this section] shall apply only if—

“(A) before January 1, 1960, there is filed a return (or amended return) of the tax imposed by chapter 2 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [section 1401 et seq. of this title] for the taxable year ending as a result of his death, and

“(B) in any case where the return is filed solely for the purpose of reporting net earnings from self-employment resulting from the amendment made by subsection (a), the return is accompanied by the amount of tax attributable to such net earnings.

In any case described in the preceding sentence, no interest or penalty shall be assessed or collected on the amount of any tax due under chapter 2 of such Code solely by reason of the operation of section 1402(f) of such Code.”

Effective Date of 1957 Amendment

Section 4 of Pub. L. 85–239, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Section 3 [set out below], and the amendments made by the first section of this Act [amending this section], shall apply with respect to monthly insurance benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare], for months beginning after, and lump sum death payments under such title in the case of deaths occurring after, the date of the enactment of this Act [Aug. 30, 1957].

“(b) Notwithstanding subsection (a), in the case of any individual who—

“(1)(A) has remuneration which is deemed, by reason of section 3, to constitute remuneration for employment for purposes of title II of the Social Security Act [section 401 et seq. of Title 42], or

“(B) has income which constitutes net earnings from self-employment under such title by reason of the filing of a certificate pursuant to section 1402(e)(3)(A) or (B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], and

“(2) was entitled to monthly insurance benefits under title II of the Social Security Act [section 401 et seq. of Title 42] for the month in which this Act is enacted [August 1957],

section 3 [set out below] and the amendments made by the first section of this Act [amending this section] shall apply with respect to monthly insurance benefits under such title based on his wages and self-employment income only if he, or any other person entitled to monthly insurance benefits under such title on the basis of such wages and self-employment income, files, on or after the date of enactment of this Act [Aug. 30, 1957], an application for recomputation by reason of this Act. Such recomputation shall be made in the manner provided in title II of the Social Security Acts [section 401 et seq. of Title 42] as in effect at the time of the last previous computation or recomputation of such individual’s primary insurance amount and as though the application therefor was filed in the month in which the application for such last previous computation or recomputation was filed. No recomputation under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415 (f) of Title 42]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application therefor is filed, but in no case for any month which begins on or prior to the date of the enactment of this Act. Any such recomputation shall be effective only if it results in a higher primary insurance amount.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(c) The preceding provisions of this section shall not render erroneous any monthly insurance benefits under title II of the Social Security Act [section 401 et seq. of Title 42] for the month in which this Act [August 1957] is enacted or any prior month.”

Section 5(c) of Pub. L. 85–239 provided that: “The amendments made by this section [amending this section and section 411 of Title 42] shall, except for purposes of section 203 of the Social Security Act [section 403 of title 42], apply only with respect to taxable years ending on or after December 31, 1957. For purposes of section 203 of the Social Security Act [section 403 of Title 42] (other than subsection (a)), such amendments shall apply only with respect to taxable years beginning after the month in which this Act is enacted [August 1957]. For purposes of subsection (a) of such section 203, such amendments shall apply only with respect to taxable years of the insured individual ending on or after December 31, 1957.”

Effective Date of 1956 Amendment

Amendment by section 201(e)(2), (f) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1955, amendment by section 201(i) of that act applicable with respect to taxable years ending on or after Dec. 31, 1956, amendment by section 201(e)(3) of that act applicable with respect to taxable years ending after 1954, and, except as provided in section 201(m)(2)(B) of that act, amendment by section 201(g) of that act applicable only with respect to taxable years ending after 1956, see section 201(m) of act Aug. 1, 1956, set out as a under section 3121 of this title.

Effective Date of 1954 Amendment

Section 201(d) of act Sept. 1, 1954, provided that: “The amendments made by subsections (a), (b) and (c) of this section [amending this section] shall be applicable only with respect to taxable years ending after 1954.”

Revocation by Members of the Clergy of Exemption From Social Security Coverage

Pub. L. 106–170, title IV, § 403, Dec. 17, 1999, 113 Stat. 1910, provided that:

“(a) In General.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted [enacted Dec. 17, 1999], may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed by the Commissioner of Internal Revenue), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s second taxable year beginning after December 31, 1999. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.)), as specified in the application, either with respect to the applicant’s first taxable year beginning after December 31, 1999, or with respect to the applicant’s second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402 (e)(1). If the application is filed after the due date of the applicant’s Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraphs (4) and (5) of section 1402 (c)) except for the exemption under section 1402(e)(1) of such Code.

“(b) Effective Date.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and with respect to monthly insurance benefits payable under title II on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).”

Limited Exemption for Canadian Ministers From Certain Self-Employment Tax Liability

Section 306 of Pub. L. 103–296 provided that:

“(a) In General.—Notwithstanding any other provision of law, if—

“(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

“(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act [42 U.S.C. 433] was in effect, and

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“(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

“(b) Period for Filing.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

“(c) Taxable Years Affected by Certificate.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

“(d) Restriction on Crediting of Exempt Self-Employment Income.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411 (b)), and, if such individual’s primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services (prior to March 31, 1995) or the Commissioner of Social Security (after March 30, 1995) shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.”

Plan Amendments Not Required Until January 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

Revocation of Exemption From Coverage by Clergymen; Procedure, Applicability, Etc.

Section 1704(b) of Pub. L. 99–514 provided that:

“(1) In general.—Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1986, as redesignated by subsection (a)(2)(B) of this section, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted [enacted Oct. 22, 1986], may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

“(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act [42 U.S.C. 402 (a), 423] (without regard to section 202(j)(1) or 223(b) of such Act [42 U.S.C. 402 (j)(1), 423 (b)]), and

“(B) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s first taxable year beginning after the date of the enactment of this Act [Oct. 22, 1986].

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1986 and title II of the Social Security Act [42 U.S.C. 401 et seq.]), as specified in the application, either with respect to the applicant’s first taxable year ending on or after the date of the enactment of this Act [Oct. 22, 1986] or with respect to the applicant’s first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402 (e)(1). If the application is filed on or after the due date of the Federal income tax return for the applicant’s first taxable year ending on or after the date of the enactment of this Act [Oct. 22, 1986] and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

“(2) Effective date.—Paragraph (1) of this subsection shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act [Oct. 22, 1986] and with respect to monthly insurance benefits payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such paragraph) is effective (and lump-sum

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death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year.”

Section 316 of Pub. L. 95–216, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], any exemption which has been received under section 1402(e)(1) of such Code, by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act [Pub. L. 95–216, enacted Dec. 20, 1977] is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code [this chapter]), if such application is filed—

“(1) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402 (a) or 423 of Title 42, The Public Health and Welfare] (without regard to section 202(j)(1) or 223(b) of such Act [section 402 (j)(1) or 423 (b) of Title 42]), and

“(2) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s first taxable year beginning after the date of the enactment of this Act [Dec. 20, 1977].

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 [this chapter] and title II of the Social Security Act [section 401 et seq. of Title 42]), as specified in the application, either with respect to the applicant’s first taxable year ending on or after the date of the enactment of this Act [Dec. 20, 1977] or with respect to the applicant’s first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402 (e)(1). If the application is filed on or after the due date of the applicant’s first taxable year ending on or after the date of the enactment of this Act [Dec. 20, 1977] and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code [this chapter] (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

“(b) Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years ending on or after the date of the enactment of this Act [Dec. 20, 1977], and with respect to monthly insurance benefits payable under title II of the Social Security Act [section 401 et seq. of Title 42] on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such subsection) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).”

Election of Exemption of Fees From Coverages Self-Employment Income

Section 122(c)(2) of Pub. L. 90–248 authorized any individual affected by the amendments made by Pub. L. 90–248 to subsecs. (c)(1), (2)(E) of this section and section 411 (c)(1), (2)(E) of Title 42, The Public Health and Welfare, to make an irrevocable election not to have such amendments apply to fees received in 1968 and every year thereafter if he filed, on or before the due date of his income tax return for 1968, with the Secretary of the Treasury, a certificate of election of exemption from such amendments.

Time for Claim for Refund or Credit of Overpayment; Disallowance of Interest

Section 501(c) of Pub. L. 90–248 authorized the payment of a refund or credit of any overpayment resulting from the amendment of subsec. (h)(2), relating to the filing of applications under this section, by section 501(a) of Pub. L. 90–248 if the claim therefore was filed on or before Dec. 31, 1968.

Refund or Credit on Claims for Overpayment Filed Before April 15, 1966, by Members of Religious Groups Opposed to Insurance

Section 319(f) of Pub. L. 89–97 authorized the payment of a refund or credit of any overpayment resulting from the amendments made to sections 402, 411, and 1402 of this title by Pub. L. 89–97, if the claim therefore is filed on or before Apr. 15, 1966.

Computation of Interest or Assessment of Penalties on Self-Employment Taxes Payable by Ministers, Members of Religious Orders, and Christian Science Practitioners

Section 331(b) of Pub. L. 89–97 established, for purposes of computing interest, Apr. 15, 1967, as the due date for the payment, under section 1401 of this title, of taxes due for any taxable year ending before Jan. 1, 1966 solely by

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reason of the filing of a certificate or supplementary certificate under subsec. (e)(5) of this section, which was struck out by section 115(b)(2) of Pub. L. 90–248.

Computation of Interest or Assessment of Penalties on Self-Employment Taxes Payable by Ministers, Members of Religious Orders, and Christian Science Practitioners

Section 101(d) of Pub. L. 86–778 established, for purposes of computing interest, Apr. 15, 1962, as the due date for the payment, under section 1401 of this title, of taxes due for any taxable year ending before 1959 solely by reason of the filing of a certificate or supplementary certificate under subsec. (e)(3)(B) or (5) of this section.

Section 1(c) of Pub. L. 85–239 established the due date, for purposes of computing interest, for the payment of taxes, where a certificate had been filed under subsec. (e)(3)(A) or (B) of this section after the due date of a return for any taxable year.

Remuneration Deemed Net Earnings From Self-Employment and not Remuneration for Employment

Section 105(c)(2) of Pub. L. 86–778, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Remuneration which is deemed under section 1402(g) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to constitute net earnings from self-employment and not remuneration for employment shall also be deemed, for purposes of title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare], to constitute net earnings from self-employment and not remuneration for employment. If, pursuant to the last sentence of section 1402(g) of the Internal Revenue Code of 1986, an individual is deemed to have become an employee of an organization (or to have become a member of a group) on the first day of a calendar quarter, such individual shall likewise be deemed, for purposes of clause (ii) or (iii) of section 210(a)(8)(B) of the Social Security Act [section 410 (a)(18)(B)(ii), (iii) of Title 42], to have become an employee of such organization (or to have become a member of such group) on such day.”

Remuneration Paid to Ministers, Members of Religious Orders, and Christian Science Practitioners in 1955 and 1956 Deemed Remuneration for Employment for Purposes of Social Security Benefits

Section 3 of Pub. L. 85–239, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Remuneration which is deemed under section 1402(e)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to constitute remuneration for employment shall also be deemed, notwithstanding sections 210(a)(8)(A) and 211(c) of the Social Security Act [sections 410 (a)(8)(A) and 411 (c) of Title 42, The Public Health and Welfare], to constitute remuneration for employment (and not net earnings from self-employment) for purposes of title II of such Act [section 401 et seq. of Title 42].” See section 4 of Pub. L. 85–239, set out as an Effective Date of 1957 Amendment note above.

Monthly Benefits and Lump-Sum Death Payments Under Social Security Act

Section 105(d)(2) of Pub. L. 86–778, set out as an Effective Date of 1960 Amendment note under section 3121 of this title, provided that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare], for September 1960 or any prior month shall be payable or increased by reason of the provisions of subsections (b) and (c) of section 105 or the amendments made by such subsections [adding subsec. (g) to this section and enacting notes under this section and section 3121 of this title], and no lump-sum death payment under title II of the Social Security Act shall be payable or increased by reason of such provisions or amendments in the case of any individual who died prior to Sept. 13, 1960.