

**(4) Regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(A) rules for the certification of qualified opportunity funds for the purposes of this section,

(B) rules to ensure a qualified opportunity fund has a reasonable period of time to reinvest the return of capital from investments in qualified opportunity zone stock and qualified opportunity zone partnership interests, and to reinvest proceeds received from the sale or disposition of qualified opportunity zone property, and

(C) rules to prevent abuse.

**(f) Failure of qualified opportunity fund to maintain investment standard**

**(1) In general**

If a qualified opportunity fund fails to meet the 90-percent requirement of subsection (c)(1),<sup>2</sup> the qualified opportunity fund shall pay a penalty for each month it fails to meet the requirement in an amount equal to the product of—

(A) the excess of—

(i) the amount equal to 90 percent of its aggregate assets, over

(ii) the aggregate amount of qualified opportunity zone property held by the fund, multiplied by

(B) the underpayment rate established under section 6621(a)(2) for such month.

**(2) Special rule for partnerships**

In the case that the qualified opportunity fund is a partnership, the penalty imposed by paragraph (1) shall be taken into account proportionately as part of the distributive share of each partner of the partnership.

**(3) Reasonable cause exception**

No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 115-97, title I, §13823(a), Dec. 22, 2017, 131 Stat. 2184.)

EFFECTIVE DATE

Section effective on Dec. 22, 2017, see section 13823(d) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 1016 of this title.

**CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME**

Sec.	
1401.	Rate of tax.
1402.	Definitions.
1403.	Miscellaneous provisions.

**§ 1401. Rate of tax**

**(a) Old-age, survivors, and disability insurance**

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to

12.4 percent of the amount of the self-employment income for such taxable year.

**(b) Hospital insurance**

**(1) In general**

In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 2.9 percent of the amount of the self-employment income for such taxable year.

**(2) Additional tax**

**(A) In general**

In addition to the tax imposed by paragraph (1) and the preceding subsection, there is hereby imposed on every taxpayer (other than a corporation, estate, or trust) for each taxable year beginning after December 31, 2012, a tax equal to 0.9 percent of the self-employment income for such taxable year which is in excess of—

(i) in the case of a joint return, \$250,000,

(ii) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under clause (i), and

(iii) in any other case, \$200,000.

**(B) Coordination with FICA**

The amounts under clause (i), (ii), or (iii) (whichever is applicable) of subparagraph (A) shall be reduced (but not below zero) by the amount of wages taken into account in determining the tax imposed under section 3121(b)(2) with respect to the taxpayer.

**(c) Relief from taxes in cases covered by certain international agreements**

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(Aug. 16, 1954, ch. 736, 68A Stat. 353; Sept. 1, 1954, ch. 1206, title II, §208(a), 68 Stat. 1093; Aug. 1, 1956, ch. 836, title II, §202(a), 70 Stat. 845; Pub. L. 85-840, title IV, §401(a), Aug. 28, 1958, 72 Stat. 1041; Pub. L. 87-64, title II, §201(a), June 30, 1961, 75 Stat. 140; Pub. L. 89-97, title I, §111(c)(4), title III, §321(a), July 30, 1965, 79 Stat. 342, 394; Pub. L. 90-248, title I, §109(a)(1), (b)(1), Jan. 2, 1968, 81 Stat. 835, 836; Pub. L. 92-336, title II, §204 (a)(1), (b)(1), July 1, 1972, 86 Stat. 420, 421; Pub. L. 92-603, title I, §135(a)(1), (b)(1), Oct. 30, 1972, 86 Stat. 1362, 1363; Pub. L. 93-233, §6(b)(1), Dec. 31, 1973, 87 Stat. 955; Pub. L. 94-455, title XIX, §1901(a)(154), Oct. 4, 1976, 90 Stat. 1789; Pub. L. 95-216, title I, §101(a)(3), (b)(3), title III, §317(b)(1), Dec. 20, 1977, 91 Stat. 1511, 1512, 1539; Pub. L. 98-21, title I, §124(a), (b), Apr. 20, 1983, 97 Stat. 89; Pub. L. 101-508, title XI, §11801(a)(36), (c)(16), Nov. 5, 1990, 104 Stat. 1388-521, 1388-527; Pub. L. 108-203, title IV, §415, Mar. 2, 2004, 118 Stat. 530; Pub. L. 111-148, title IX, §9015(b)(1), title X, §10906(b), Mar. 23, 2010, 124 Stat. 871, 1020; Pub. L. 111-152, title I, §1402(b)(1)(B), Mar. 30,

<sup>2</sup> So in original. Probably should be “subsection (d)(1).”

2010, 124 Stat. 1063; Pub. L. 113-295, div. A, title II, § 221(a)(89), (90), Dec. 19, 2014, 128 Stat. 4050.)

## REFERENCES IN TEXT

Section 233 of the Social Security Act, referred to in subsec. (c), is classified to section 433 of Title 42, The Public Health and Welfare.

## AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, § 221(a)(89), substituted “12.4 percent of the amount of the self-employment income for such taxable year.” for “the following percent of the amount of the self-employment income for such taxable year:

<b>“In the case of a taxable year</b>		
<b>Beginning after:</b>	<b>And before:</b>	<b>Percent:</b>
December 31, 1983 .....	January 1, 1988 .....	11.40
December 31, 1987 .....	January 1, 1990 .....	12.12
December 31, 1989 .....		12.40”.

Subsec. (b)(1). Pub. L. 113-295, § 221(a)(90), substituted “2.9 percent of the amount of the self-employment income for such taxable year.” for “the following percent of the amount of the self-employment income for such taxable year:

<b>“In the case of a taxable year</b>		
<b>Beginning after:</b>	<b>And before:</b>	<b>Percent:</b>
December 31, 1983 .....	January 1, 1985 .....	2.60
December 31, 1984 .....	January 1, 1986 .....	2.70
December 31, 1985 .....		2.90”.

2010—Subsec. (b). Pub. L. 111-148, § 9015(b)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (b)(2)(A). Pub. L. 111-152, § 1402(b)(1)(B)(i), added cl. (ii) and redesignated former cl. (ii) as (iii).

Pub. L. 111-148, § 10906(b), substituted “0.9 percent” for “0.5 percent” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 111-152, § 1402(b)(1)(B)(ii), substituted “under clause (i), (ii), or (iii) (whichever is applicable)” for “under clauses (i) and (ii)”.

2004—Subsec. (c). Pub. L. 108-203 substituted “exclusively to the laws applicable to” for “to taxes or contributions for similar purposes under”.

1990—Subsecs. (c), (d). Pub. L. 101-508 redesignated subsec. (d) as (c) and struck out former subsec. (c) which provided a credit against self-employment taxes imposed by this section.

1983—Subsec. (a). Pub. L. 98-21, § 124(a), amended subsec. (a) generally, substituting a table for former pars. (1) to (7) which had imposed a tax on the self-employment income of every individual (1) in the case of any taxable year beginning before Jan. 1, 1978, to be equal to 7.0 percent of the amount of the self-employment income for such taxable year; (2) in the case of any taxable year beginning after Dec. 31, 1977, and before Jan. 1, 1979, to be equal to 7.10 percent of the amount of the self-employment income for such taxable year; (3) in the case of any taxable year beginning after Dec. 31, 1978, and before Jan. 1, 1981, to be equal to 7.05 percent of the amount of the self-employment income for such taxable year; (4) in the case of any taxable year beginning after Dec. 31, 1980, and before Jan. 1, 1982, to be equal to 8.00 percent of the amount of the self-employment income for such taxable year; (5) in the case of any taxable year beginning after Dec. 31, 1981, and before Jan. 1, 1985, to be equal to 8.05 percent of the amount of the self-employment income for such taxable year; (6) in the case of any taxable year beginning after Dec. 31, 1984, and before Jan. 1, 1990, to be equal to 8.55 percent of the amount of the self-employment income for such taxable year; and (7) in the case of any taxable year beginning after Dec. 31, 1989, to be equal to 9.30 percent of the amount of the self-employment income for such taxable year.

Subsec. (b). Pub. L. 98-21, § 124(a), amended subsec. (b) generally, substituting a table for former pars. (1) to (6) which had imposed a tax on the self-employment in-

come of every individual (1) in the case of any taxable year beginning after Dec. 31, 1973, and before Jan. 1, 1978, to be equal to 0.90 percent of the amount of the self-employment income for such taxable year; (2) in the case of any taxable year beginning after Dec. 31, 1977, and before Jan. 1, 1979, to be equal to 1.00 percent of the amount of the self-employment income for such taxable year; (3) in the case of any taxable year beginning after Dec. 31, 1978, and before Jan. 1, 1981, to be equal to 1.05 percent of the amount of the self-employment income for such taxable year; (4) in the case of any taxable year beginning after Dec. 31, 1980, and before Jan. 1, 1985, to be equal to 1.30 percent of the amount of the self-employment income for such taxable year; (5) in the case of any taxable year beginning after Dec. 31, 1984, and before Jan. 1, 1986, to be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and (6) in the case of any taxable year beginning after Dec. 31, 1985, to be equal to 1.45 percent of the amount of the self-employment income for such taxable year.

Subsecs. (c), (d). Pub. L. 98-21, § 124(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1977—Subsec. (a). Pub. L. 95-216, § 101(a)(3), substituted provisions calling for a graduated increase in the tax from 7.0 percent for taxable years beginning before Jan. 1, 1978, to 9.30 percent for taxable years beginning after Dec. 31, 1989, for provisions under which the tax had been set at 7.0 percent without any increase in the rate in future years.

Subsec. (b). Pub. L. 95-216, § 101(b)(3), substituted “after December 31, 1977, and before January 1, 1979” for “after December 31, 1977, and before January 1, 1981” and “1.00 percent” for “1.10 percent” in par. (2), substituted “after December 31, 1978, and before January 1, 1981” for “after December 31, 1980, and before January 1, 1986” and “1.05 percent” for “1.35 percent” in par. (3), substituted “after December 31, 1980, and before January 1, 1985” for “after December 31, 1985” and “1.30 percent” for “1.50 percent” in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, § 317(b)(1), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-455, § 1901(a)(154)(A), among other changes, substituted provisions relating to a uniform tax rate of 7 percent on self-employment income of every individual for provisions relating to varied tax rate of 5.8 percent of the amount of self-employment income for any taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1969, 6.3 percent for any taxable year beginning after Dec. 31, 1968, and before Jan. 1, 1971, 6.9 percent for any taxable year beginning after Dec. 31, 1970, and before Jan. 1, 1973, and 7.0 percent for any taxable year beginning after Dec. 31, 1972.

Subsec. (b). Pub. L. 94-455, § 1901(a)(154)(B), redesignated pars. (3) to (6) as (1) to (4). Former pars. (1) and (2), which related to a 6 percent tax rate on self-employment income for any taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1974, and 1 percent tax rate on self-employment income for any taxable year beginning after Dec. 31, 1972, and before Jan. 1, 1974, were struck out.

1973—Subsec. (b)(2). Pub. L. 93-233 substituted “1974” for “1978”.

Subsec. (b)(3). Pub. L. 93-233 substituted “1973” and “1978” for “1977” and “1981” and decreased the rate of tax from 1.25 percent to 0.90 percent.

Subsec. (b)(4). Pub. L. 93-233 substituted “1977” and “1981” for “1980” and “1986” and decreased the rate of tax from 1.35 percent to 1.10 percent.

Subsec. (b)(5). Pub. L. 93-233 substituted “beginning after December 31, 1980, and before January 1, 1986” for “beginning after December 31, 1985” and decreased the rate of tax from 1.45 percent to 1.35 percent.

Subsec. (b)(6). Pub. L. 93-233 added par. (6).

1972—Subsec. (a)(3). Pub. L. 92-603, § 135(a)(1)(A), substituted “1973” for “1978”.

Subsec. (a)(4). Pub. L. 92-603, § 135(a)(1)(B), substituted provisions that in the case of taxable years beginning after Dec. 31, 1972, the tax shall be equal to 7.0 percent

of the amount of the self-employment income for such taxable year, for provisions that in the case of taxable years beginning after Dec. 31, 1977, and before Jan. 1, 2011, the tax shall be equal to 6.7 percent of the amount of the self-employment income for such taxable year.

Subsec. (a)(5). Pub. L. 92-603, §135(a)(1)(B), struck out par. (5) which provided that in the case of taxable years beginning after Dec. 31, 2010, the tax shall be equal to 7.0 percent of the amount of the self-employment income for the taxable year.

Subsec. (a)(3) to (5). Pub. L. 92-336, §204(a)(1), substituted "January 1, 1978" for "January 1, 1973" and struck out "and" after "such taxable year" in par. (3), extended from any taxable year beginning after December 31, 1972 to any taxable year beginning after December 31, 1977, and before January 1, 2011, and decreased from 7.0 percent to 6.7 percent the provisions relating to the tax on self-employment income in par. (4), and added par. (5).

Subsec. (b)(2). Pub. L. 92-603, §135(b)(1), increased the rate of tax from 0.9 percent to 1.0 percent.

Subsec. (b)(3). Pub. L. 92-603, §135(b)(1), substituted "1981" for "1986" and "1.25" for "1.0".

Subsec. (b)(4). Pub. L. 92-603, §135(b)(1), substituted "1980" for "1985", "1986" for "1993", and "1.35" for "1.1".

Subsec. (b)(5). Pub. L. 92-603, §135(b)(1), substituted "1985" for "1992" and "1.45" for "1.2".

Subsec. (b)(2) to (5). Pub. L. 92-336, §204(b)(1), substituted "1978" for "1976" and "0.9" for "0.65" in subsec. (b)(2), "1977" for "1975", "1986" for "1980" and "1.0" for "0.70" in par. (3), "1985" for "1979", "1993" for "1987" and "1.1" for "0.80" in par. (4), and "1992" for "1986" and "1.2" for "0.90" in par. (5).

1968—Subsecs. (a)(1) to (4). Pub. L. 90-248, §109(a)(1), substituted "December 31, 1967" and "January 1, 1969" for "December 31, 1965" and "January 1, 1967" in par. (1), "December 31, 1968", "January 1, 1971" and "6.3" for "December 31, 1966", "January 1, 1969", and "5.9" in par. (2), and "December 31, 1970" and "6.9" for "December 31, 1968" and "6.6" in par. (3), and reenacted par. (4) without change.

Subsec. (b)(1) to (5). Pub. L. 90-248, §109(b)(1), struck out par. (1) provision for rate of 0.35 percent of amount of self-employment income for any taxable year beginning after Dec. 31, 1965, and before Jan. 1, 1967, redesignated former pars. (2) to (6) as (1) to (5), substituted "December 31, 1967" for "December 31, 1966" in such par. (1) and increased the rate by 0.10 percent to 0.60, 0.65, 0.70, 0.80, and 0.90 in pars. (1) to (5), respectively.

1965—Pub. L. 89-97, §321(a), divided the total tax imposed under the entire section for each taxable year upon the self-employment income for such taxable year into two separate taxes by dividing the section into subsecs. (a) and (b), with subsec. (a) reflecting the tax for old-age, survivors, and disability insurance and subsec. (b) reflecting a separate tax for hospital insurance; reduced from 6.2 percent to 6.15 percent the rate of total tax imposed under the entire section for taxable years beginning after Dec. 31, 1965, and before Jan. 1, 1967 (resulting from a tax of 5.8 percent under subsec. (a) and 0.35 percent under subsec. (b)), increased from 6.2 percent to 6.4 percent the rate for taxable years beginning after Dec. 31, 1966, and before Jan. 1, 1968 (resulting from a tax of 5.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), reduced from 6.9 percent to 6.4 percent the rate for taxable years beginning after Dec. 31, 1967, and before Jan. 1, 1969 (resulting from a tax of 5.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), increased from 6.9 percent to 7.1 percent the rate for taxable years beginning after Dec. 31, 1968, and before Jan. 1, 1973 (resulting from a tax of 6.6 percent under subsec. (a) and 0.50 percent under subsec. (b)), from 6.9 percent to 7.55 percent the rate for taxable years beginning after Dec. 31, 1972, and before Jan. 1, 1976 (resulting from a tax of 7.0 percent under subsec. (a) and 0.55 percent under subsec. (b)), from 6.9 percent to 7.60 percent the rate for taxable years beginning after Dec. 31, 1975, and before Jan. 1, 1980 (resulting from a tax of 7.0 percent under subsec. (a) and 0.60 percent under subsec. (b)), from 6.9 percent to 7.70 percent

the rate for taxable years beginning after Dec. 31, 1979, and before Jan. 1, 1987 (resulting from a tax of 7.0 percent under subsec. (a) and 0.70 percent under subsec. (b)), and from 6.9 percent to 7.80 percent the rate for taxable years beginning after Dec. 31, 1986 (resulting from a tax of 7.0 percent under subsec. (a) and 0.80 percent under subsec. (b)), and provided that the exclusion of employee representatives by section 1402(c)(3) should not apply for purposes of the tax imposed by subsec. (b).

Subsec. (b). Pub. L. 89-97, §111(c)(4), struck out provision that for purposes of the tax imposed by this subsection, the exclusion of employee representatives by section 1402(c)(3) shall not apply.

1961—Pub. L. 87-64 increased the rate of tax for taxable years beginning after Dec. 31, 1961, and before Jan. 1, 1963, from 4½ to 4.7 percent, taxable years beginning after Dec. 31, 1962, and before Jan. 1, 1966, from 5¼ to 5.4 percent, taxable years beginning after Dec. 31, 1965, and before Jan. 1, 1968, from 6 to 6.2 percent, taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1969, from 6 to 6.9 percent, and taxable years beginning after Dec. 31, 1968, from 6¼ to 6.9 percent.

1958—Pub. L. 85-840 increased the rate of tax by substituting provisions imposing a tax of 3¼ percent for taxable years beginning after Dec. 31, 1958, 4½ percent for years beginning after Dec. 31, 1959, 5¼ percent for years beginning after Dec. 31, 1962, 6 percent for years beginning after Dec. 31, 1965, and 6¾ percent for years beginning after Dec. 31, 1968, for provisions which imposed a tax of 3¾ percent for taxable years beginning after Dec. 31, 1956, 4¾ percent for years beginning after Dec. 31, 1959, 4¾ percent for years beginning after Dec. 31, 1964, 5¾ percent for years beginning after Dec. 31, 1969, and 6¾ percent for years beginning after Dec. 31, 1974.

1956—Act Aug. 1, 1956, increased the rate of tax for all taxable years beginning after Dec. 31, 1956, by three-eighths percent.

1954—Act Sept. 1, 1954, increased the 4¾ percent rate of tax on self-employment income for taxable years beginning after Dec. 31, 1969, to 5¼ percent for taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1975, and 6 percent for taxable years beginning after Dec. 31, 1974.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title I, §1402(b)(3), Mar. 30, 2010, 124 Stat. 1063, provided that: "The amendments made by this subsection [amending this section and sections 3101 and 6654 of this title] shall apply with respect to remuneration received, and taxable years beginning after, December 31, 2012."

Amendment by section 9015(b)(1) of Pub. L. 111-148 applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, see section 9015(c) of Pub. L. 111-148, set out as a note under section 164 of this title.

Pub. L. 111-148, title X, §10906(c), Mar. 23, 2010, 124 Stat. 1020, provided that: "The amendments made by this section [amending this section and section 3101 of this title] shall apply with respect to remuneration received, and taxable years beginning, after December 31, 2012."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-21, title I, §124(d), Apr. 20, 1983, 97 Stat. 91, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 32, 164, 275, 401, and 1402 of this title, and section 411 of Title 42, The Public Health and Welfare] shall apply to taxable years beginning after December 31, 1983.

“(2) SUBSECTION (c).—The amendments made by subsection (c) [amending sections 32, 164, 275, 401, and 1402 of this title and section 411 of Title 42] shall apply to taxable years beginning after December 31, 1989.”

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-216, title I, §104, Dec. 20, 1977, 91 Stat. 1514, provided that: “The amendments made by this title [amending this section, sections 3101 and 3111 of this title, and sections 401, 415, and 430 of Title 42, The Public Health and Welfare] shall apply with respect to remuneration paid or received, and taxable years beginning, after 1977.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

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

#### EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-233, §6(c), Dec. 31, 1973, 87 Stat. 955, provided that: “The amendment made by subsection (b)(1) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1973. The remaining amendments made by this section [amending sections 3101 and 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1973.”

#### EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title I, §135(c), Oct. 30, 1972, 86 Stat. 1364, provided that: “The amendments made by subsections (a)(1) and (b)(1) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1972. The remaining amendments made by this section [amending sections 3101 and 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1972.”

Pub. L. 92-336, title II, §204(c), Oct. 30, 1972, 86 Stat. 1377, provided that: “The amendments made by subsections (a)(1) and (b)(1) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1972. The remaining amendments made by this section [amending sections 3101 and 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1972.”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-248, title I, §109(c), Jan. 2, 1968, 81 Stat. 837, provided that: “The amendments made by subsections (a)(1) and (b)(1) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1967. The remaining amendments made by this section [amending sections 3101 and 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1967.”

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 111(c)(4) of Pub. L. 89-97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act [section 3201 et seq. of this title] provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act [section 3101 et seq. of this title] provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97, set out as an Effective Date note under section 1395i-1 of Title 42, The Public Health and Welfare.

Pub. L. 89-97, title III, §321(d), July 30, 1965, 79 Stat. 396, provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1965. The amendments made by subsections (b) and (c) [amending sections 3101 and 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1965.”

#### EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-64, title II, §201(d), June 30, 1961, 75 Stat. 141, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1961. The amendments made by subsections (b) and (c) [amending sections 3101 and 3111 of this title] shall apply with respect to remuneration paid after December 31, 1961.”

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-840, title IV, §401(d), Aug. 28, 1958, 72 Stat. 1042, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1958. The amendments made by subsections (b) and (c) [amending sections 3101 and 3111 of this title] shall apply with respect to remuneration paid after December 31, 1958.”

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 1, 1956, ch. 836, title II, §202(d), 70 Stat. 846, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1956. The amendments made by subsections (b) and (c) [amending sections 3101 and 3111 of this title] shall apply with respect to remuneration paid after December 31, 1956.”

#### SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

#### TEMPORARY EMPLOYEE PAYROLL TAX CUT

Pub. L. 111-312, title VI, §601, Dec. 17, 2010, 124 Stat. 3309, as amended by Pub. L. 112-78, title I, §101(a)-(d), Dec. 23, 2011, 125 Stat. 1281, 1282; Pub. L. 112-96, title I, §1001(a), (b), Feb. 22, 2012, 126 Stat. 158, provided that: “(a) IN GENERAL.—Notwithstanding any other provision of law—

“(1) with respect to any taxable year which begins in the payroll tax holiday period, the rate of tax under section 1401(a) of the Internal Revenue Code of 1986 shall be 10.40 percent, and

“(2) with respect to remuneration received during the payroll tax holiday period, the rate of tax under 3101(a) of such Code shall be 4.2 percent (including for purposes of determining the applicable percentage under sections 3201(a) and 3211(a)(1) [probably means 3211(a)] of such Code).

“(b) COORDINATION WITH DEDUCTIONS FOR EMPLOYMENT TAXES.—

“(1) DEDUCTION IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.—For purposes of applying section 1402(a)(12) of the Internal Revenue Code of 1986, the rate of tax imposed by subsection 1401(a) of such Code shall be determined without regard to the reduction in such rate under this section.

“(2) INDIVIDUAL DEDUCTION.—In the case of the taxes imposed by section 1401 of such Code for any taxable year which begins in the payroll tax holiday period, the deduction under section 164(f) of such Code with respect to such taxes shall be equal to the sum of—

“(A) 59.6 percent of the portion of such taxes attributable to the tax imposed by section 1401(a) of such Code (determined after the application of this section), plus

“(B) one-half of the portion of such taxes attributable to the tax imposed by section 1401(b) of such Code.

“(c) PAYROLL TAX HOLIDAY PERIOD.—The term ‘payroll tax holiday period’ means calendar years 2011 and 2012.

“(d) EMPLOYER NOTIFICATION.—The Secretary of the Treasury shall notify employers of the payroll tax holiday period in any manner the Secretary deems appropriate.

“(e) TRANSFERS OF FUNDS.—

“(1) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

“(2) TRANSFERS TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—There are hereby appropriated to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a)(2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Account had such amendments not been enacted.

“(3) COORDINATION WITH OTHER FEDERAL LAWS.—For purposes of applying any provision of Federal law other than the provisions of the Internal Revenue Code of 1986, the rate of tax in effect under section 3101(a) of such Code shall be determined without regard to the reduction in such rate under this section.”

[Pub. L. 112-96, title I, §1001(c), Feb. 22, 2012, 126 Stat. 159, provided that: “The amendments made by this section [amending section 601 of Pub. L. 111-312, set out above] shall apply to remuneration received, and taxable years beginning, after December 31, 2011.”]

[Pub. L. 112-78, title I, §101(e), Dec. 23, 2011, 125 Stat. 1282, provided that:

[“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending section 601 of Pub. L. 111-312, set out above] shall apply to remuneration received, and taxable years beginning, after December 31, 2011.

[“(2) TECHNICAL AMENDMENTS.—The amendments made by subsection (d) [amending section 601(b)(2) of Pub. L. 111-312, set out above] shall take effect as if included in the enactment of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 [Pub. L. 111-312].”]

#### LAND DIVERTED UNDER 1983 PAYMENT-IN-KIND PROGRAM

Land diverted from production of agricultural commodities under a 1983 payment-in-kind program to be treated, for purposes of this chapter, as used during the 1983 crop year by qualified taxpayers in the active conduct of the trade or business of farming, with qualified taxpayers who materially participate in the diversion and devotion to conservation uses under a 1983 payment-in-kind program to be treated as materially participating in the operation of such land during the 1983 crop year, see section 3 of Pub. L. 98-4, set out as a note under section 61 of this title.

#### DEDUCTION BY OR CREDIT AGAINST INDIVIDUAL INCOME TAX FOR TAXES PAID INTO FOREIGN SOCIAL SECURITY SYSTEM PURSUANT TO INTERNATIONAL AGREEMENT

Pub. L. 95-216, title III, §317(b)(4), Dec. 20, 1977, 91 Stat. 1540, provided that: “Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in ac-

cordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act [section 433 of Title 42, The Public Health and Welfare] shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual.”

## § 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(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3833(a)(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—