or not attributable to earnings as a minister, member of a religious order, or Christian Science practitioner) for the first taxable year ending after 1954 for which the individual (by or in respect of whom the supplemental certificate or certificate is filed) has filed a return, as described in paragraph (1) of this paragraph, and for each succeeding taxable year ending before January 1, 1966; and

(ii) In any case where refund has been made of any such tax which (but for section 1402(e)(5)) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 17, 1967. For regulations under section 6611 (relating to interest on overpayments), see §301.6611–1 of part 301 of this chapter (Regulations on Procedure and Administration).

(b) Underpayment of tax. For purposes of this section, any underpayment of the tax which is attributable to an error made in good faith will not invalidate an election which is otherwise valid.

(c) Nonapplicability of section 6401. Any payment or repayment described in paragraph (a)(4) of this section shall not constitute an overpayment within the meaning of section 6401 which relates to amounts treated as overpayments. For the provisions of section 6401 and the regulations thereunder, see section 6401 and §301.6401–1 of part 301 of this chapter (Regulations on Procedure and Administration).

(d) Applicability of §§1.1402(e)(5)–1 and 1.1402(e)(6)–1. The provisions of section 1402(e)(5) and (6) (in effect prior to July 30, 1965, the date of enactment of the Social Security Amendments of 1965) and §§1.1402(e)(5)–1 and 1.1402(e)(6)–1 shall apply with respect to any certificate filed pursuant to such sections if a supplemental certificate is not filed with respect to such certificate as provided in this section.


§1.1402(e)(6)–1 Certificates filed by fiduciaries or survivors on or before April 15, 1962.

In any case in which an individual whose death has occurred after September 12, 1960, and before April 16, 1962, derived earnings from the performance of services as a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, as 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) in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, a waiver certificate on Form 2031 may be filed after June 30, 1961 (the date of enactment of the Social Security Amendments of 1961), and on or before April 16, 1962, by a fiduciary acting for such individual’s estate or by such individual’s survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. Such certificates shall be effective for the period prescribed in section 1402(e)(3)(A) (see §1.1402(e)(3)(A)–1(c)) as if filed by the individual on the date of his death.

§1.1402(f)–1 Computation of partner’s net earnings from self-employment which ends as result of his death.

(a) Taxable years ending after August 28, 1958—(1) In general. The rules for the computation of a partner’s net earnings from self-employment are set forth in paragraphs (d) to (g), inclusive, of §1.1402(a)–2. In addition to the net earnings from self-employment computed under such rules for the last taxable year of a deceased partner, if a partner’s taxable year ends after August 28, 1958, solely because of death, and on a day other than the last day of the partnership’s taxable year, the deceased partner’s net earnings from self-employment for such year shall also include so much of the deceased partner’s distributive share of partnership ordinary income or loss (see subparagraph (3) of this paragraph) for the taxable year of the partnership in which his death occurs as is attributable to an interest in the partnership prior to the month following the month of his death.

(2) Computation. (i) The deceased partner’s distributive share of partnership ordinary income or loss for the partnership taxable year in which he died shall be determined by applying the rules contained in paragraphs (d) to
(g), inclusive, of §1.1402(a)-2, except that paragraph (e) shall not apply.

(ii) The portion of such distributive share to be included under this section in the deceased partner's net earnings from self-employment for his last taxable year shall be determined by treating the ordinary income or loss constituting such distributive share as having been realized or sustained ratably over the period of the partnership taxable year during which the deceased partner had an interest in the partnership and during which his estate, or any other person succeeding by reason of his death to rights with respect to his partnership interest, held such interest in the partnership or held a right with respect to such interest. The amount to be included under this section in the deceased partner's net earnings from self-employment for his last taxable year will, therefore, be determined by multiplying the deceased partner's distributive share of partnership ordinary income or loss for the partnership taxable year in which he died, as determined under subdivision (i) of this subparagraph, by a fraction, the denominator of which is the number of calendar months in the partnership taxable year over which the ordinary income or loss constituting the deceased partner's distributive share of partnership income or loss for such year is treated as having been realized or sustained under the preceding sentence and the numerator of which is the number of calendar months in such partnership taxable year that precede attributable to an interest in the partnership for his last taxable year. B dies on October 17, 1958, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until June 30, 1959. B's distributive share of the partnership's ordinary income, as determined under paragraphs (d) to (g), inclusive, of §1.1402(a)-2 (with the exception of paragraph (e)), for the taxable year of the partnership ended June 30, 1959 is $4,500. The amount to be included in the deceased partner's net earnings from self-employment for his last taxable year is $3,900 ($2,400 plus $1,500).

Example (2). If in the preceding example B's estate is entitled to only $1,000, the amount of B's distributive share of partnership ordinary income for the period July 1, 1958 through October 17, 1958, such $1,000 is considered to have been realized ratably over the period preceding B's death and will be included in B's net earnings from self-employment for his last taxable year.

Example (3). X, who reports his income on a calendar year basis, is a member of a partnership which also reports its income on a calendar year basis. X dies on June 30, 1959, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law. On September 15, 1959, X's estate sells the partnership interest to which it succeeded on the death of X. X's distributive share of partnership income for 1959 is $5,500. $600 of such amount is X's share of the gain from the sale of a capital asset which occurs on May 1, 1959, and $400 of such amount is the estate's share of the gain from the sale of a capital asset which occurs on
July 15, 1959. The remainder of such amount is income from services rendered. X’s distributive share of partnership ordinary income for 1958, as determined under paragraphs (d) to (g), inclusive, of §1.1402(a)–2 (with the exception of paragraph (e)), is $4,500 ($5,500 minus $1,000). The portion of such share attributable to an interest in the partnership prior to the month following the month of his death is $4,500 × 6/8.5 (6 being the number of months in the partnership taxable year in which X died as precede the month following the month of his death and 8.5 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or $3,176.47.

(b) Options available to farmers—(1) Special rule. In determining whether the optional method available to a member of a farm partnership in computing his net earnings from self-employment may be applied, and in applying such method, it is necessary to determine the partner’s distributive share of partnership gross income and the partner’s distributive share of income described in section 702(a)(9). See section 1402(a) and §1.1402(a)–15. If section 1402(f) and this section apply, or may be made applicable under section 403(b)(2) of the Social Security Amendments of 1958 and paragraph (c) of this section, for the last taxable year of a deceased partner, such partner’s distributive share of income described in section 702(a)(9) for his last taxable year shall be determined by including therein any amount which is included under section 1402(f) and this section in his net earnings from self-employment for such taxable year. Such a partner’s distributive share of partnership gross income for his last taxable year shall be determined by including therein so much of the deceased partner’s distributive share described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,400 of income must be aggregated, pursuant to paragraphs (d) to (g), inclusive, of §1.1402(a)–2 (with the exception of paragraph (e)), for the taxable year of the ABX partnership. Under this paragraph the $200 loss must be included in determining X’s distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,600 of income must be aggregated, pursuant to paragraph (c) of §1.1402(a)–15, with the $300 loss, X’s distributive share of ABX partnership loss described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,600 of income must be aggregated, pursuant to paragraphs (d) to (g), inclusive, of §1.1402(a)–2 (with the exception of paragraph (e)), for the taxable year of the ABX partnership. Under this paragraph the $200 loss must be included in determining X’s distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment.

(2) Examples. The principles set forth in this paragraph may be illustrated by the following examples:

Example (1). X, an individual who files his income tax returns on a calendar year basis, is a member of the XYZ farm partnership, the taxable year of which ends on March 31. X dies on May 31, 1967, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until March 31, 1968. X’s distributive share of the partnership’s ordinary income, determined under paragraphs (d) to (g), inclusive, of §1.1402(a)–2, for the taxable year of the partnership ended March 31, 1967, is $1,600. His distributive share of his estate, of such partnership’s ordinary income as determined under paragraphs (d) to (g), inclusive, of §1.1402(a)–2, for the taxable year of the partnership ended March 31, 1968, is $1,200. The portion of such $1,200 attributable to an interest in the partnership prior to the month following the month in which he died is $1,200 × 2/12 (2 being the number of months in the partnership taxable year in which X died which preceded the month following the month of his death and 12 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or $200. X is also a member of the ABX farm partnership, the taxable year of which ends on May 31. His distributive share of the partnership loss described in section 702(a)(9) for the partnership taxable year ending May 31, 1967, is $300. Section 1402(f) and this section do not apply with respect to such $300 since X’s last taxable year ends, as a result of his death, with the taxable year of the ABX partnership. Under this paragraph the $200 loss must be included in determining X’s distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,400 of income must be aggregated, pursuant to paragraph (d) of §1.1402(a)–15, with the $300 loss, X’s distributive share of ABX partnership loss described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,600 of income must be aggregated, pursuant to paragraphs (d) to (g), inclusive, of §1.1402(a)–2 (with the exception of paragraph (e)), for the taxable year of the ABX partnership. Under this paragraph the $200 loss must be included in determining X’s distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment.
for such year), when aggregated with his distributive share of XYZ partnership gross income for the partnership taxable year ended March 31, 1967, and with his distributive share of ARX partnership gross income for the partnership taxable year ended May 31, 1967, results in X having more than $2,400 of gross income from the trade or business of farming. If such aggregate amount of gross income is not more than $2,400, the option described in paragraph (a)(2)(i) of §1.1402(a)-15, is available.

Example (2). A, a sole proprietor engaged in the business of farming, files his income tax returns on a calendar year basis. A is also a member of a partnership engaged in an agricultural activity. The partnership files its returns on the basis of a fiscal year ending March 31. A dies June 29, 1967. A’s gross income from farming as a sole proprietor for the 6-month period comprising his taxable year which ends because of death is $1,600 and his actual net earnings from self-employment based thereon are $400. As of March 31, 1967, A’s distributive share of the gross income of the farm partnership is $2,200 and his distributive share of income described in section 702(a)(9) based thereon is $1,000. The amount of A’s distributive share of the partnership’s ordinary income for its taxable year ended March 31, 1968, which may be included in his net earnings from self-employment under section 1402(f) and paragraph (a) of this section is $300. The amount of the deceased partner’s distributive share of partnership gross income attributable to an interest in the partnership prior to the month following the month of his death as is determined, pursuant to subparagraph (1) of this paragraph, under paragraph (a) of this section is $2,000. An aggregation of the above figures produces a gross income from farming of $5,800 and actual net earnings from self-employment of $1,700.

Under these circumstances none of the options provided by section 1402(a) may be used. If the actual net earnings from self-employment had been less than $1,600, the option described in paragraph (a)(2)(ii) of §1.1402(a)-15 would have been available.

(c) Taxable years ending after 1955 and on or before August 28, 1958—(1) Requirement of election. If a partner’s taxable year ended, as a result of his death, after 1955 and on or before August 28, 1958, the rules set forth in paragraph (a) of this section may be made applicable in computing the deceased partner’s net earnings from self-employment for his last taxable year provided that:

(i) Before January 1, 1960, there is filed by the person designated in section 6012(b)(1) and paragraph (b)(1) of §1.6012-3, a return (or amended return) of the tax imposed by chapter 2 for the taxable year ending as a result of death, and

(ii) Such return, if filed solely for the purpose of reporting net earnings from self-employment resulting from the enactment of section 1402(f), is accompanied by the amount of tax attributable to such net earnings.

(2) Administrative rule of special application. Notwithstanding the provisions of sections 6601, 6651, and 6653 (see such sections and the regulations thereunder) no interest or penalty shall be assessed or collected on the amount of any self-employment tax due solely by reason of the operation of section 1402(f) in the case of an individual who died after 1955 and before August 29, 1958.


§1.1402(g)-1 Treatment of certain remuneration erroneously reported as net earnings from self-employment.

(a) General rule. If an amount is erroneously paid as self-employment tax, for any taxable year ending after 1954 and before 1962, with respect to remuneration for service (other than service described in section 3121(b)(5)(A)) performed in the employ of an organization described in section 501(c)(3) and exempt from income tax under section 501(a), and if such remuneration is reported as self-employment income on a return filed on or before the due date prescribed for filing such return (including any extension thereof), the individual who paid such amount (or a fiduciary acting for such individual or his estate, or his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act), may request that such remuneration be deemed to constitute net earnings from self-employment. If such request is filed during the period September 14, 1966, to April 16, 1967, inclusive, and on or after the date on which the organization which paid such remuneration to such individual for services performed in its employ has filed, pursuant to section 3121(k), a certificate waiving exemption from taxes under the Federal Insurance Contributions Act, and if no...