

Internal Revenue Service, Treasury

§ 1.1402(e)–5A

reason of section 1402(b)(1) (G) and (H) no part of the $400 represents “self-employment income”, nevertheless the entire $400 constitutes “net earnings from self-employment” for purposes of fulfilling the requirements of section 1402(e)(2).

Example (b). M, who files his income tax returns on a calendar year basis, was ordained as a minister in March 1973. During 1973 he receives $410 for service performed in the exercise of his ministry. In addition to his ministerial services, M is engaged during the year 1973 in a mercantile venture from which he derives net earnings from self-employment in the amount of $4,000. The expenses incurred by him in connection with his ministerial services during 1973 and which are allowable deductions under Chapter I of the Internal Revenue Code amount to $410. During 1974 and 1975, M has net earnings from self-employment in amounts of $4,600 and $4,800, respectively, and some part of each of these amounts is from the exercise of his ministry. The deductions allowed in each of the years 1974 and 1975 by Chapter I which are attributable to the gross income derived by M from the exercise of his ministry in each of such years, respectively, do not equal or exceed such gross income in such year. If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1975, or an extension thereof.

(b) Effect of death. The right of an individual to file an application for exemption shall cease upon his death. Thus, the surviving spouse, administrator, or executor of a decedent shall not be permitted to file an application for exemption for such decedent.

(c) Computation of net earnings—(1) Taxable years ending before 1968. For purposes of this section net earnings from self-employment for taxable years ending before 1968 shall be determined without regard to the fact that, without an election under section 1402(e) (as in effect prior to amendment by section 115(b)(2) of the Social Security Amendments of 1967, see §1.1402(e)–1A), the performance of services 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, or the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, does not constitute a trade or business for purposes of the tax on self-employment income.

(2) Taxable years ending after 1967. For purposes of this section and §1.1402(e)–4A net earnings from self-employment for taxable years ending after 1967 shall be determined without regard to section 1402(c) (4) and (5). See §1.1402(c)–3(e)(2) and §1.1402(c)–5 relating to ministers and members of religious orders, and paragraphs (a)(3)(ii) and (b) of §1.1402(c)–6 relating to Christian Science practitioners.


§ 1.1402(e)–4A Period for which exemption is effective.

(a) In general. If an application for exemption on Form 4361:

(1) Is filed by a minister, a member of a religious order, or a Christian Science practitioner eligible to file an application, the exemption is effective.

(2) Is approved (see paragraph (c) of §1.1402(e)–2A), the exemption from the tax on self-employment income shall be effective for the first taxable year ending after 1967 for which such minister, member, or practitioner has net earnings from self-employment of $400 or more any part of which was derived from the performance of service in his capacity as a minister, member, or practitioner, and for all succeeding taxable years. See, however, paragraphs (b)(1)(ii) and (d)(2) of §1.1402(c)–5 relating to ministers and members of religious orders and paragraph (b)(2) of §1.1402(c)–6 relating to Christian Science practitioners.

(b) Exemption irrevocable. An exemption granted to a minister, a member of a religious order, or a Christian Science practitioner pursuant to the provisions of section 1402(e) is irrevocable.


§ 1.1402(e)–5A Applications for exemption from self-employment taxes filed after December 31, 1986, by ministers, certain members of religious orders, and Christian Science practitioners.

(a) In general. (1) Except as provided in paragraph (a)(2) of this section, this section applies to any individual who is a duly ordained, commissioned, or licensed minister of a church, 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 a Christian Science practitioner who files an application after December 31, 1986, for exemption from the tax on self-employment income (see section 1401 and 1.1401-1) with respect to services performed by him or her in his or her capacity as a minister, member, or practitioner pursuant to §§1.1402(e)-2A through 1.1402(e)-4A. This section does not apply to applications for exemption under section 1402(e) that are filed before January 1, 1987.

(2) Application of this section to Christian Science practitioners. Paragraph (b) of this section does not apply to Christian Science practitioners. Thus, Christian Science practitioners filing applications for exemption from self-employment taxes under section 1402(e) should follow the procedures set forth in §§1.1402(e)-2A through 1.1402(e)-4A, and are not required to include the statement described in paragraph (b)(1)(ii) of this section. However, see paragraph (c) of this section for verification procedures with respect to applications for exemption from self-employment taxes filed after December 31, 1986, by Christian Science practitioners.

(b) Church or order must be informed—

(1) In general. Any individual, other than a Christian Science practitioner, who files an application for exemption from the tax on self-employment income under section 1402(e) after December 31, 1986:

(i) Shall file such application in accordance with the procedures set forth in §§1.1402(e)-2A through 1.1402(e)-4A, and

(ii) Shall include with such application a statement to the effect that the individual making application for exemption has informed the ordaining, commissioning, or licensing body of the church or order that he or she is opposed to the acceptance (for services performed as a minister or member of a religious order not under a vow of poverty) of any public insurance that makes payments in the event of death, disability, old age, or retirement, or that 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).

(2) Statement to be filed with form. If the form provided by the Service for applying for exemption under 1402(e) does not contain the statement set forth in paragraph (b)(1)(ii) of this section, any individual required to include this statement with his or her application under this paragraph (b) shall file such statement with the individual’s application at the time and place prescribed for filing such application under §§1.1402(e)-2A and 1.1402(e)-3A. The statement shall contain the information set forth in paragraph (b)(1)(ii) of this section and shall be signed by such individual under penalties of perjury.

(c) Verification of application—

(1) In general. The Service will approve an application for an exemption filed by an individual to whom this section applies only after verifying that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption under section 1402(e) (See §1.1402(e)-2A) and that the individual seeks exemption on such grounds in accordance with the procedures set forth in paragraph (c)(2) of this section.

(2) Verification procedure. Upon receipt of an application for exemption from self-employment taxes under section 1402(e) and this section, the Service will mail to the applicant a statement that describes the grounds on which an individual may receive an exemption under section 1402(e). The individual filing the application shall certify that he or she has read the statement and that he or she seeks exemption from self-employment taxes on the grounds listed in the statement. The certification shall be made by signing a copy of the statement under penalties of perjury and mailing the signed copy to the Service Center from which the statement was issued not later than 90 days after the date on which the statement was mailed to the individual. If the signed copy of the statement is not mailed to the Service Center within 90 days of the date on which the statement was mailed to the individual, that individual’s exemption will not be effective until the date that
§ 1.1402(e)(1)–1 Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.

(a) In general. Any individual who is (1) 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 (2) a Christian Science practitioner may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services performed by him in the exercise of his ministry or in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, as the case may be. Such an election shall be made by filing a certificate on Form 2031 in the manner provided in paragraph (b) of this section and within the time specified in §1.1402(e)(2)–1. If a minister or member to whom this section has application, or a Christian Science practitioner, makes an election by filing Form 2031 such individual shall, for each taxable year for which the election is effective (see §1.1402(e)(3)–1), be considered as carrying on a trade or business with respect to the performance of service in his capacity as a minister or member, or as a Christian Science practitioner, as the case may be.

(b) Waiver certificate. The certificate on Form 2031 shall be filed in triplicate with the district director of internal revenue for the internal revenue district in which is located the legal residence or principal place of business of the individual who executes the certificate. If such individual has no legal residence or principal place of business in any internal revenue district, the certificate shall be filed with the Director of International Operations, Internal Revenue Service, Washington, DC 20225, or at such other address as is designated in the instructions relating to the certificate. The certificate must be filed within the time prescribed in §1.1402(e)(2)–1. If an individual to whom paragraph (a) of this section has application submits to a district director of internal revenue a dated and signed statement indicating that he desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services, such statement will be treated as a waiver certificate, if filed within the time specified in §1.1402(e)(2)–1, provided that without unnecessary delay such statement is supplemented by a properly executed Form 2031. An application for a social security account number filed on Form SS–5 or the filing of an income tax return showing an amount representing self-employment income or self-employment tax shall not be construed to constitute an election referred to in §1.1402(e)(1)–1.

§ 1.1402(e)(2)–1 Time limitation for filing waiver certificate.

(a) General rule. (1) Any individual referred to in §1.1402(e)(1)–1 who desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services must file the waiver certificate (Form 2031) prescribed by §1.1402(e)(1)–1 on or before whichever of the following dates is later:

(i) The due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for his second taxable year ending after 1963; or

(ii) The due date of the income tax return, including any extension thereof, for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed as prescribed in paragraph (c) of this section) of $400 or more, any part of which:

(a) In the case of a duly ordained, commissioned, or licensed minister of a church, consists of remuneration for service performed in the exercise of his ministry,

(b) In the case of a member of a religious order who has not taken a vow of poverty as a member of such order, consists of remuneration for service

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