

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, 1/2 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, 2010, 124 Stat. 1063; Pub. L. 113-295, div. A, title II, § 221(a)(89), (90), Dec. 19, 2014, 128 Stat. 4050.)

Editorial Notes

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:

“In the case of a taxable year

Table with 3 columns: Beginning after, And before, Percent. Rows for Dec 31, 1983; Dec 31, 1987; Dec 31, 1989.

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:

“In the case of a taxable year

Table with 3 columns: Beginning after, And before, Percent. Rows for Dec 31, 1983; Dec 31, 1984; Dec 31, 1985.

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, 1973, 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 income 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 6¾ to 6.9 percent.

1958—Pub. L. 85-840 increased the rate of tax by substituting provisions imposing a tax of 3¾ 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.

Statutory Notes and Related Subsidiaries

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 pre-

ceding 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.

CREDIT FOR SICK LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS

Pub. L. 117-2, title IX, §9642, Mar. 11, 2021, 135 Stat. 171, provided that:

"(a) IN GENERAL.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year an amount equal to the qualified sick leave equivalent amount with respect to the individual.

"(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible self-employed individual' means an individual who—

"(A) regularly carries on any trade or business within the meaning of section 1402 of the Internal Revenue Code of 1986, and

"(B) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act [div. E (§5101 et seq.) of Pub. L. 116-127, 29 U.S.C. 2601 note] if—

"(i) the individual were an employee of an employer (other than himself or herself), and

"(ii) such Act applied after March 31, 2021.

"(2) RULES OF APPLICATION.—For purposes of paragraph (1)(B), in determining whether an individual would be entitled to receive paid leave under the Emergency Paid Sick Leave Act, such Act shall be applied—

"(A) by inserting 'the employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 and such employee has been exposed to COVID-19 or is unable to work pending the results of such test or diagnosis, or the employee is obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization' after 'medical diagnosis' in section 5102(a)(3) of such Act, and

"(B) by applying section 5102(b)(1) of such Act separately with respect to each taxable year.

"(c) QUALIFIED SICK LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified sick leave equivalent amount' means, with respect to any eligible self-employed individual, an amount equal to—

"(A) the number of days during the taxable year (but not more than 10) that the individual is unable to perform services in any trade or business referred to in section 1402 of the Internal Revenue Code of 1986 for a reason with respect to which such individual would be entitled to receive sick leave as described in subsection (b), multiplied by

"(B) the lesser of—

"(i) \$200 (\$511 in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act, applied with the modification described in subsection (b)(2)(A)) of this section, or

"(ii) 67 percent (100 percent in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) of the average daily self-employment income of the individual for the taxable year.

"(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term 'average daily self-employment income' means an amount equal to—

"(A) the net earnings from self-employment of the individual for the taxable year, divided by

"(B) 260.

"(3) ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.—In the case of an individual who elects (at such time and in such manner as the Secretary may provide) the application of this paragraph, paragraph (2)(A) shall be applied by substituting 'the prior taxable year' for 'the taxable year'.

"(4) ELECTION TO NOT TAKE DAYS INTO ACCOUNT.—Any day shall not be taken into account under paragraph (1)(A) if the eligible self-employed individual elects (at such time and in such manner as the Secretary may prescribe) to not take such day into account for purposes of such paragraph.

"(d) CREDIT REFUNDABLE.—

"(1) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

"(2) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

"(e) SPECIAL RULES.—

"(1) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary may prescribe to establish such individual as an eligible self-employed individual.

“(2) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of such Code) paid by an employer which are required to be paid by reason of the Emergency Paid Sick Leave Act, the qualified sick leave equivalent amount otherwise determined under subsection (c) of this section shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 3131(b)(1) of such Code exceeds \$2,000 (\$5,110 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act).

“(f) APPLICATION OF SECTION.—Only days occurring during the period beginning on April 1, 2021, and ending on September 30, 2021, may be taken into account under subsection (c)(1)(A).

“(g) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

“(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary, under which such possession will promptly distribute such payments to its residents.

“(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

“(1) regulations or other guidance to effectuate the purposes of this section, and

“(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.”

Pub. L. 116-127, div. G, § 7002, Mar. 18, 2020, 134 Stat. 212, as amended by Pub. L. 116-260, div. N, title II, §§ 286(a), (b)(2), 287(a), Dec. 27, 2020, 134 Stat. 1989-1991, provided that:

“(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to the qualified sick leave equivalent amount with respect to the individual.

“(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term ‘eligible self-employed individual’ means an individual who—

“(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

“(2) either—

“(A) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act [div. E (§ 5101 et seq.) of Pub.

L. 116-127, 29 U.S.C. 2601 note] if the individual were an employee of an employer (other than himself or herself), or

“(B) would be so entitled if—

“(i) such Act were applied by substituting ‘March 31, 2021’ for ‘December 31, 2020’ in section 5109 thereof, and

“(ii) the individual were an employee of an employer (other than himself or herself).

“(c) QUALIFIED SICK LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified sick leave equivalent amount’ means, with respect to any eligible self-employed individual, an amount equal to—

“(A) the number of days during the taxable year (but not more than the applicable number of days) that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a reason with respect to which such individual would be entitled to receive sick leave as described in subsection (b), multiplied by

“(B) the lesser of—

“(i) \$200 (\$511 in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act [29 U.S.C. 2601 note]), or

“(ii) 67 percent (100 percent in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) of the average daily self-employment income of the individual for the taxable year.

“(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term ‘average daily self-employment income’ means an amount equal to—

“(A) the net earnings from self-employment of the individual for the taxable year, divided by

“(B) 260.

“(3) APPLICABLE NUMBER OF DAYS.—For purposes of this subsection, the term ‘applicable number of days’ means, with respect to any taxable year, the excess (if any) of 10 days over the number of days taken into account under paragraph (1)(A) in all preceding taxable years.

“(4) ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.—In the case of an individual who elects (at such time and in such manner as the Secretary, or the Secretary’s delegate, may provide) the application of this paragraph, paragraph (2)(A) shall be applied by substituting ‘the prior taxable year’ for ‘the taxable year’.

“(d) SPECIAL RULES.—

“(1) CREDIT REFUNDABLE.—

“(A) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

“(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(2) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary’s delegate) may prescribe to establish such individual as an eligible self-employed individual.

“(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of the Internal Revenue Code [of 1986]) paid by an employer which are required to be paid by reason of the Emergency Paid Sick Leave Act, the qualified sick leave equivalent amount otherwise determined under subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such sub-

section and in section 7001(b)(1) [26 U.S.C. 3111 note] exceeds \$2,000 (\$5,110 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act).

“(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

“(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary’s delegate) which is during the 15-day period beginning on the date of the enactment of this Act [Mar. 18, 2020], and ending on March 31, 2021, may be taken into account under subsection (c)(1)(A).

“(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary’s delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary’s delegate) based on information provided by the government of the respective possession.

“(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary’s delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary’s delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary’s delegate), under which such possession will promptly distribute such payments to its residents.

“(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(g) REGULATIONS.—The Secretary of the Treasury (or the Secretary’s delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

“(1) regulations or other guidance to effectuate the purposes of this Act [div. G of Pub. L. 116–127, enacting provisions set out as notes under this section and section 3111 of this title], and

“(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.”

[Pub. L. 116–260, div. N, title II, §286(c), Dec. 27, 2020, 134 Stat. 1991, provided that: “The amendments made by this section [amending section 7002 of Pub. L. 116–127, set out above, section 7004 of Pub. L. 116–127, set out below, and sections 7001, 7003, and 7005 of Pub. L. 116–127, set out as notes under section 3111 of this title] shall take effect as if included in the provisions of the Families First Coronavirus Response Act [Pub. L. 116–127] to which they relate.”]

[Pub. L. 116–260, div. N, title II, §287(c), Dec. 27, 2020, 134 Stat. 1991, provided that: “The amendments made by this section [amending section 7002 of Pub. L. 116–127, set out above, and section 7004 of Pub. L.

116–127, set out below] shall take effect as if included in the provisions of the Families First Coronavirus Response Act [Pub. L. 116–127] to which they relate.”]

CREDIT FOR FAMILY LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS

Pub. L. 117–2, title IX, §9643, Mar. 11, 2021, 135 Stat. 174, provided that:

“(a) IN GENERAL.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year an amount equal to 100 percent of the qualified family leave equivalent amount with respect to the individual.

“(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible self-employed individual’ means an individual who—

“(A) regularly carries on any trade or business within the meaning of section 1402 of the Internal Revenue Code of 1986, and

“(B) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Family and Medical Leave Expansion Act [div. C of Pub. L. 116–127, see Short Title of 2020 Amendment note set out under section 2601 of Title 29, Labor] if—

“(i) the individual were an employee of an employer (other than himself or herself),

“(ii) section 102(a)(1)(F) of the Family and Medical Leave Act of 1993 [29 U.S.C. 2612(a)(1)(F)] applied after March 31, 2021.

“(2) RULES OF APPLICATION.—For purposes of paragraph (1)(B), in determining whether an individual would be entitled to receive paid leave under the Emergency Family and Medical Leave Act—

“(A) section 110(a)(2)(A) of the Family and Medical Leave Act of 1993 [29 U.S.C. 2620(a)(2)(A)] shall be applied by inserting ‘or any reason for leave described in section 5102(a) of the Families First Coronavirus Response Act, or the employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID–19 and such employee has been exposed to COVID–19 or is unable to work pending the results of such test or diagnosis, or the employee is obtaining immunization related to COVID–19 or recovering from any injury, disability, illness, or condition related to such immunization’ after ‘public health emergency’, and

“(B) section 110(b) of such Act shall be applied—

“(i) without regard to paragraph (1) thereof, and

“(ii) by striking ‘after taking leave after such

section for 10 days’ in paragraph (2)(A) thereof.

“(c) QUALIFIED FAMILY LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified family leave equivalent amount’ means, with respect to any eligible self-employed individual, an amount equal to the product of—

“(A) the number of days (not to exceed 60) during the taxable year that the individual is unable to perform services in any trade or business referred to in section 1402 of the Internal Revenue Code of 1986 for a reason with respect to which such individual would be entitled to receive paid leave as described in subsection (b) of this section, multiplied by

“(B) the lesser of—

“(i) 67 percent of the average daily self-employment income of the individual for the taxable year, or

“(ii) \$200.

“(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term ‘average daily self-employment income’ means an amount equal to—

“(A) the net earnings from self-employment income of the individual for the taxable year, divided by

“(B) 260.

“(3) ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.—In the case of an individual who elects (at such time and in such manner as the Secretary may provide) the application of this paragraph, paragraph (2)(A) shall be applied by substituting ‘the prior taxable year’ for ‘the taxable year’.

“(4) COORDINATION WITH CREDIT FOR SICK LEAVE.—Any day taken into account in determining the qualified sick leave equivalent amount with respect to any eligible-self employed individual under section 9642 [set out above] shall not be take [sic] into account in determining the qualified family leave equivalent amount with respect to such individual under this section.

“(d) CREDIT REFUNDABLE.—

“(1) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

“(2) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(e) SPECIAL RULES.—

“(1) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary may prescribe to establish such individual as an eligible self-employed individual.

“(2) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of such Code) paid by an employer which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act, the qualified family leave equivalent amount otherwise described in subsection (c) of this section shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 3132(b)(1) of such Code exceeds \$12,000.

“(3) REFERENCES TO EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT.—Any reference in this section to the Emergency Family and Medical Leave Expansion Act shall be treated as including a reference to the amendments made by such Act.

“(f) APPLICATION OF SECTION.—Only days occurring during the period beginning on April 1, 2021 and ending on September 30, 2021, may be taken into account under subsection (c)(1)(A).

“(g) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

“(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary, under which such possession will promptly distribute such payments to its residents.

“(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession

under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

“(1) regulations or other guidance to prevent the avoidance of the purposes of this section, and

“(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.”

Pub. L. 116-127, div. G, §7004, Mar. 18, 2020, 134 Stat. 217, as amended by Pub. L. 116-260, div. N, title II, §§286(a), (b)(4), 287(b), Dec. 27, 2020, 134 Stat. 1989, 1991, provided that:

“(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to 100 percent of the qualified family leave equivalent amount with respect to the individual.

“(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term ‘eligible self-employed individual’ means an individual who—

“(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

“(2) either—

“(A) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Family and Medical Leave Expansion Act [div. C of Pub. L. 116-127, see Short Title of 2020 Amendment note set out under section 2601 of Title 29, Labor] if the individual were an employee of an employer (other than himself or herself), or

“(B) would be so entitled if—

“(i) section 102(a)(1)(F) of the Family and Medical Leave Act of 1993 [29 U.S.C. 2612(a)(1)(F)], as amended by the Emergency Family and Medical Leave Expansion Act, were applied by substituting ‘March 31, 2021’ for ‘December 31, 2020’, and

“(ii) the individual were an employee of an employer (other than himself or herself).

“(c) QUALIFIED FAMILY LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified family leave equivalent amount’ means, with respect to any eligible self-employed individual, an amount equal to the product of—

“(A) the number of days (not to exceed 50) during the taxable year that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a reason with respect to which such individual would be entitled to receive paid leave as described in subsection (b), multiplied by

“(B) the lesser of—

“(i) 67 percent of the average daily self-employment income of the individual for the taxable year, or

“(ii) \$200.

“(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term ‘average daily self-employment income’ means an amount equal to—

“(A) the net earnings from self-employment income of the individual for the taxable year, divided by

“(B) 260.

“(4) [(3)] ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.—In the case of an individual who elects (at such time and in such manner as the Secretary, or the Secretary’s delegate, may provide) the application of this paragraph, paragraph

(2)(A) shall be applied by substituting ‘the prior taxable year’ for ‘the taxable year’.

“(d) SPECIAL RULES.—

“(1) CREDIT REFUNDABLE.—

“(A) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

“(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(2) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary’s delegate) may prescribe to establish such individual as an eligible self-employed individual.

“(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of the Internal Revenue Code [of 1986]) paid by an employer which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act, the qualified family leave equivalent amount otherwise described in subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 7003(b)(1) [26 U.S.C. 3111 note] exceeds \$10,000.

“(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

“(5) REFERENCES TO EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT.—Any reference in this section to the Emergency Family and Medical Leave Expansion Act shall be treated as including a reference to the amendments made by such Act.

“(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary’s delegate) which is during the 15-day period beginning on the date of the enactment of this Act [Mar. 18, 2020], and ending on March 31, 2021, may be taken into account under subsection (c)(1)(A).

“(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary’s delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary’s delegate) based on information provided by the government of the respective possession.

“(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary’s delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary’s delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary’s delegate), under which such possession will promptly distribute such payments to its residents.

“(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession

under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(e) REGULATIONS.—The Secretary of the Treasury (or the Secretary’s delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

“(1) regulations or other guidance to prevent the avoidance of the purposes of this Act [div. G of Pub. L. 116-127, enacting provisions set out as notes under this section and section 3111 of this title], and

“(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.”

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 accordance 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—

(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