

ALASKA LEGISLATURE

2543

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

Hazardous Duty Areas; Effective Date note under section 112 of this title.

Effective Date of 1990 Amendment

Section 11703(f)(2) of Pub. L. 101-508 provided that: ``The amendment made by paragraph (1) [amending this section] shall apply as if included in the amendments made by section 1151 of the Tax Reform Act of 1986 [Pub. L. 99-514, see Effective Date of 1986 Amendment note set out under section 79 of this title] but shall not apply to any amount paid before the date of the enactment of this Act [Nov. 5, 1990] which the employer treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1986 when paid.''

Effective Date of 1989 Amendments

Section 7631(c) of Pub. L. 101-239 provided that: ``The amendments made by this section [amending this section] shall apply to remuneration paid after December 31, 1989.''

Amendment by Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

Effective Date of 1988 Amendment

Amendment by sections 1001(g)(4)(B)(iii), 1011(f)(9), and 1011B(a)(33) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 1011B(a)(22)(D) of Pub. L. 100-647 not applicable to any individual who separated from service with the employer before Jan. 1, 1989, see section 1011B(a)(22)(F) of Pub. L. 100-647, set out as a note under section 3121 of this title.

Effective Date of 1986 Amendment

Amendment by section 122(e)(4) of Pub. L. 99-514 applicable to prizes and awards granted after Dec. 31, 1986, see section 151(c) of Pub. L. 99-514, set out as a note under section 1 of this title.

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

Effective Date of 1984 Amendment

Amendment by section 491(d)(38) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Amendment by section 531(d)(4) of Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

Effective Date of 1983 Amendment

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section

109 of Pub. L. 97-448, set out as a note under section 1 of this title.

Effective Date of 1981 Amendment

Amendment by section 112(b)(5) of Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

Amendment by section 124(e)(2)(A) of Pub. L. 97-34 applicable to remuneration paid after Dec. 31, 1981, see section 124(f)(2) of Pub. L. 97-34, set out as a note under section 21 of this title.

Amendment by section 311(h)(6) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97-34, set out as a note under section 219 of this title.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

Effective Date of 1978 Amendments

Amendment by Pub. L. 95-615 applicable to remuneration paid after Nov. 8, 1978, but with taxpayers allowed to elect not to have the amendment apply with respect to any taxable year beginning after Dec. 31, 1977, and before Jan. 1, 1979, see section 209(b), (c), Pub. L. 95-615, set out as a note under section 911 of this title.

Amendment by Pub. L. 95-600 applicable with respect to taxable years beginning after Dec. 31, 1978, see section 164(d) of Pub. L. 95-600, set out as a note under section 127 of this title.

Effective Date of 1976 Amendment

Amendment by section 1501(b)(7) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94-455, set out as a note under section 62 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-406 effective on Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93-406, set out as an Effective Date note under section 4973 of this title.

Effective Date of 1972 Amendment

Section 3(b) of Pub. L. 92-279 provided that: "The amendments made by section 2 [amending this section] shall apply to wages paid on or after the first day of the first calendar month which begins more than 30 days after the date of the enactment of this Act [Apr. 26, 1972]."

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-809 applicable with respect to remuneration paid after Dec. 31, 1966, see section 103(n)(4) of Pub. L. 89-809, set out as a note under section 871 of this title.

Effective Date of 1965 Amendment

Amendment by section 313(d)(1), (2) of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as a note under section 6053 of this title.

Effective Date of 1964 Amendment

Amendment by section 204(b) of Pub. L. 88-272 applicable to remuneration paid after Dec. 31, 1963, in the form of group-term life insurance provided after such date, see section 204(d) of Pub. L. 88-272, set out as an Effective Date note under section 79 of this title.

Amendment by section 213(c) of Pub. L. 88-272 applicable to remuneration paid after the seventh day following Feb. 26, 1964, see section 213(d) of Pub. L. 88-272, set out as a note under section 62 of this title.

Effective Date of 1962 Amendment

Amendment by Pub. L. 87-792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

Effective Date of 1961 Amendments

Amendment by Pub. L. 87-293 applicable with respect to remuneration paid after Sept. 22, 1961, see section 201(d) of Pub. L. 87-293, set out as a note under section 912 of this title.

Section 110(h)(4) of Pub. L. 87-256 provided that: "The amendments made by subsection (g) of this section [amending this section and section 3402 of this title] shall apply with respect to wages paid after December 31, 1961."

Short Title of 1966 Amendment

Pub. L. 89-368, Sec. 1, Mar. 15, 1966, 80 Stat. 38, provided that: "This Act [enacting sections 276 and 6682 of this title and section 428 of Title 42, The Public Health and Welfare, amending sections 1402, 1403, 3402, 4061, 4251, 4253, 6015, 6154, 6211, 6412, 6654, 7205, and 7701 of this title and section 1202 of Title 19, Customs Duties, and enacting provisions set out as notes under sections 276, 3402, 4061, 4251, 6154, and 6654 of this title and section 428 of Title 42] may be cited as the 'Tax Adjustment Act of 1966'."

Repeals; Amendments and Application of Amendments Unaffected

Section 201(c) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, Sec. 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

Controversies Involving Whether Individuals Are Employees for Purposes of Employment Taxes

Section 530 of Pub. L. 95-600, as amended by Pub. L. 96-167, Sec. 9(d), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 96-541, Sec. 1, Dec. 17, 1980, 94 Stat. 3204; Pub. L. 97-248, title II, Sec. 269(c)(1), (2), 96 Stat. 552; Pub. L. 99-514, Sec. 2, title XVII, Sec. 1706(a), Oct. 22, 1986, 100 Stat. 2095, 2781; Pub. L. 104-188, title I, Sec. 1122(a), Aug. 20, 1996, 110 Stat. 1766, provided that:

``(a) Termination of Certain Employment Tax Liability.--

``(1) In general.--If--

``(A) for purposes of employment taxes, the taxpayer did not treat an individual as an employee for any period, and

``(B) in the case of periods after December 31, 1978, all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period are filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee, then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

``(2) Statutory standards providing one method of satisfying the requirements of paragraph (1).--For purposes of paragraph (1), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

``(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

``(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

``(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

``(3) Consistency required in the case of prior tax treatment.--Paragraph (1) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

``(4) Refund or credit of overpayment.--If refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) is not barred on the date of the enactment of this Act [Nov. 6, 1978] by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) shall not expire before the date 1 year after the date of the enactment of this Act.

``(b) Prohibition Against Regulations and Rulings on Employment Status.--No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act [Nov. 6, 1978] and before the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

``(c) Definitions.--For purposes of this section--

``(1) Employment tax.--The term 'employment tax' means any tax imposed by subtitle C of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 3101 et seq. of this title].

``(2) Employment status.--The term 'employment status' means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or

as an independent contractor (or other individual who is not an employee).

“(d) Exception.--This section shall not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work.

“(e) Special Rules for Application of Section.--

“(1) Notice of availability of section.--An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit inquiry relating to the employment status of one or more individuals who perform services for the taxpayer, provide the taxpayer with a written notice of the provisions of this section.

“(2) Rules relating to statutory standards.--For purposes of subsection (a)(2)--

“(A) a taxpayer may not rely on an audit commenced after December 31, 1996, for purposes of subparagraph (B) thereof unless such audit included an examination for employment tax purposes of whether the individual involved (or any individual holding a position substantially similar to the position held by the individual involved) should be treated as an employee of the taxpayer,

“(B) in no event shall the significant segment requirement of subparagraph (C) thereof be construed to require a reasonable showing of the practice of more than 25 percent of the industry (determined by not taking into account the taxpayer), and

“(C) in applying the long-standing recognized practice requirement of subparagraph (C) thereof--

“(i) such requirement shall not be construed as requiring the practice to have continued for more than 10 years, and

“(ii) a practice shall not fail to be treated as long-standing merely because such practice began after 1978.

“(3) Availability of safe harbors.--Nothing in this section shall be construed to provide that subsection (a) only applies where the individual involved is otherwise an employee of the taxpayer.

“(4) Burden of proof.--

“(A) In general.--If--

“(i) a taxpayer establishes a prima facie case that it was reasonable not to treat an individual as an employee for purposes of this section, and

“(ii) the taxpayer has fully cooperated with reasonable requests from the Secretary of the Treasury or his delegate, then the burden of proof with respect to such treatment shall be on the Secretary.

“(B) Exception for other reasonable basis.--In the case of any issue involving whether the taxpayer had a reasonable basis not to treat an individual as an employee for purposes of this section, subparagraph (A) shall only apply for purposes of determining whether the taxpayer meets the requirements of subparagraph (A), (B), or (C) of subsection (a)(2).

“(5) Preservation of prior period safe harbor.--If--

“(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

“(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period, then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

“(6) Substantially similar position.--For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.”

[Section 1122(b) of Pub. L. 104-188 provided that:

[(1) In general.--The amendment made by this section [amending section 530 of Pub. L. 95-600, set out above] shall apply to periods after December 31, 1996.

[(2) Notice by internal revenue service.--Section 530(e)(1) of the Revenue Act of 1978 [Pub. L. 95-500] (as added by subsection (a)) shall apply to audits which commence after December 31, 1996.

[(3) Burden of proof.--

[(A) In general.--Section 530(e)(4) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to disputes involving periods after December 31, 1996.

[(B) No inference.--Nothing in the amendments made by this section shall be construed to infer the proper treatment of the burden of proof with respect to disputes involving periods before January 1, 1997.'])

[Section 1706(b) of Pub. L. 99-514 provided that: 'The amendment made by this section [amending section 530 of Pub. L. 95-600, set out above] shall apply to remuneration paid and services rendered after December 31, 1986.')

Plan Amendments Not Required Until January 1, 1998

For provisions directing that if any amendments made by subtitle D [Secs. 1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

Section Referred to in Other Sections

This section is referred to in sections 41, 275, 3402, 3507, 3509, 4999, 6014, 6051, 6053, 6103, 6331 of this title; title 42 section 653a.

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TITLE 26--INTERNAL REVENUE CODE

Subtitle A--Income Taxes

CHAPTER 2--TAX ON SELF-EMPLOYMENT INCOME

Sec. 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) 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, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and

(B) any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;

(7) the deduction for personal exemptions provided in section 151 shall not be allowed;

(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), and section 911 (relating to citizens or residents of the United States living abroad), but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires;

(9) the exclusion from gross income provided by section 931 shall not apply;

(10) there shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if--

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A);

(11) the exclusion from gross income provided by section

911(a)(1) shall not apply;

(12) in lieu of the deduction provided by section 164(f) (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of--

(A) the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 for such year;

(13) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services;

(14) in the case of church employee income, the special rules of subsection (j)(1) shall apply; and

(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply.

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

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $66\frac{2}{3}$ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than \$2,400, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be an amount equal to $66\frac{2}{3}$ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than \$2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,600, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be \$1,600.

For purposes of the preceding sentence, gross income means--

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method,

the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

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

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

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (h), or by a partnership of which an individual is a member on a regular basis as defined in subsection (h), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than \$1,600 and less than $66\frac{2}{3}$ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed \$1,600.

(b) Self-employment income

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

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

(2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of paragraph (1), the term "wages" (A) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 3121(1) (relating to coverage of citizens of the United States who are employees of foreign affiliates of American employers), as would be wages under section 3121(a) if such services constituted employment under section 3121(b), and (B) includes compensation which is subject to the tax imposed by section 3201 or 3211. An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual. In the case of church employee income, the special rules of

subsection (j)(2) shall apply for purposes of paragraph (2).

 \1\ So in original.

(c) Trade or business

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

(1) the performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act;

(2) the performance of service by an individual as an employee, other than--

(A) service described in section 3121(b)(14)(B) performed by an individual who has attained the age of 18,

(B) service described in section 3121(b)(16),

(C) service described in section 3121(b)(11), (12), or (15) performed in the United States (as defined in section 3121(e)(2)) by a citizen of the United States, except service which constitutes "employment" under section 3121(y),

(D) service described in paragraph (4) of this subsection,

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act,

(F) service described in section 3121(b)(20), and

(G) service described in section 3121(b)(8)(B);

(3) the performance of service by an individual as an employee or employee representative as defined in section 3231;

(4) the performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) the performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) the performance of service by an individual during the period for which an exemption under subsection (g) is effective with respect to him.

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

(d) Employee and wages

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

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

(1) Exemption

Subject to paragraph (2), any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner, upon filing an application (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) together with a statement that either he is conscientiously opposed to, or because of religious principles he is opposed to, the acceptance (with respect to services performed by him as such minister, member, or practitioner) of any public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act) and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance, shall receive an exemption from the tax imposed by this chapter with respect to services performed by him as such minister, member, or practitioner. Notwithstanding the preceding sentence, an exemption may not be granted to an individual under this subsection if he had filed an effective waiver certificate under this section as it was in effect before its amendment in 1967.

(2) Verification of application

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

(3) Time for filing application

Any individual who desires to file an application pursuant to paragraph (1) must file such application on or before whichever of the following dates is later: (A) the due date of the return (including any extension thereof) for the second taxable year for which he has net earnings from self-employment (computed without regard to subsections (c)(4) and (c)(5)) of \$400 or more, any part of which was derived from the performance of service described in subsection (c)(4) or (c)(5); or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1967.

(4) Effective date of exemption

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

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

In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the

partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection--

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

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

(g) Members of certain religious faiths

(1) Exemption

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

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

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

and only if the Commissioner of Social Security finds that--

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

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

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

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

(2) Period for which exemption effective

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

(A) beginning (i) before the taxable year in which such individual first met the requirements of the first sentence of

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

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

(3) Subsection to apply to certain church employees

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

(h) Regular basis

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

(i) Special rules for options and commodities dealers

(1) In general

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

(2) Definitions

For purposes of this subsection--

(A) Options dealer

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

(B) Commodities dealer

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

(C) Section 1256 contracts

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

(j) Special rules for certain church employee income

(1) Computation of net earnings

In applying subsection (a)--

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

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

(2) Computation of self-employment income

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

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

- (i) to church employee income, and
- (ii) to other net earnings from self-employment.

(B) \$100 floor

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

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

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

(4) Church employee income defined

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

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

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

- (1) such amount is received after termination of such individual's agreement to perform such services for such company,
- (2) such individual performs no services for such company after such termination and before the close of such taxable year,
- (3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and
- (4) the amount of such payment--
 - (A) depends primarily on policies sold by or credited to the account of such individual during the last year of such agreement or the extent to which such policies remain in force for some period after such termination, or both, and
 - (B) does not depend to any extent on length of service or overall earnings from services performed for such company (without regard to whether eligibility for payment depends on length of service).

(Aug. 16, 1954, ch. 736, 68A Stat. 353; Sept. 1, 1954, ch. 1206, title II, Sec. 201(a)-(c), 68 Stat. 1087; Aug. 1, 1956, ch. 836, title II, Sec. 201(e)(2), (3), (f), (g), (i), 70 Stat. 840-842; Pub. L. 85-239, Secs. 1(a), (b), 2, 5(b), Aug. 30, 1957, 71 Stat. 521-523; Pub. L. 85-840, title IV, Secs. 402(a), 403(a), Aug. 28, 1958, 72 Stat. 1042, 1043; Pub. L. 86-778, title I, Secs. 101(a)-(c), 103(k), (l), 105(c)(1), 106(b), Sept. 13, 1960, 74 Stat. 926, 927, 938, 944, 945; Pub. L. 87-64, title II, Sec. 202(a), June 30, 1961, 75 Stat. 141; Pub. L. 88-272, title II, Sec. 227(b)(6), Feb. 26, 1964, 78 Stat. 98; Pub. L. 88-650,

Sec. 2(a), (b), Oct. 13, 1964, 78 Stat. 1076, 1077; Pub. L. 89-97, title III, Secs. 311(b)(1)-(3), 312(b), 319(a), (c), 320(b)(1), 331(a), 341(a), (b), July 30, 1965, 79 Stat. 381, 390, 391, 393, 401, 411; Pub. L. 89-368, title I, Sec. 102(c), Mar. 15, 1966, 80 Stat. 64; Pub. L. 90-248, title I, Secs. 108(b)(1), 115(b), 118(a), 122(b), title V, Secs. 501(a), 502(b)(1), Jan. 2, 1968, 81 Stat. 835, 839, 841, 843, 933, 934; Pub. L. 92-5, title II, Sec. 203(b)(1), Mar. 17, 1971, 85 Stat. 10; Pub. L. 92-336, title II, Sec. 203(b)(1), July 1, 1972, 86 Stat. 418; Pub. L. 92-603, title I, Secs. 121(b), 124(b), 140(b), Oct. 30, 1972, 86 Stat. 1353, 1357, 1366; Pub. L. 93-66, title II, Sec. 203(b)(1), July 9, 1973, 87 Stat. 153; Pub. L. 93-233, Sec. 5(b)(1), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93-368, Sec. 10(b), Aug. 7, 1974, 88 Stat. 422; Pub. L. 94-92, title II, Sec. 203(a), Aug. 9, 1975, 89 Stat. 465; Pub. L. 94-455, title XII, Sec. 1207(e)(1)(B), title XIX, Secs. 1901(a)(155), (b)(1)(I)(iii), (X), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1707, 1789, 1791, 1792, 1834; Pub. L. 95-216, title III, Sec. 313(b), Dec. 20, 1977, 91 Stat. 1536; Pub. L. 95-600, title VII, Sec. 703(j)(8), Nov. 6, 1978, 92 Stat. 2941; Pub. L. 95-615, Sec. 202(g)(5), formerly Sec. 202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered Sec. 202(g)(5), Pub. L. 96-222, title I, Sec. 108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 97-34, title I, Sec. 111(b)(3), (5), Aug. 13, 1981, 95 Stat. 194; Pub. L. 97-248, title II, Sec. 278(a)(2), Sept. 3, 1982, 96 Stat. 559; Pub. L. 98-21, title I, Sec. 124(c)(2), title III, Secs. 321(e)(3), 322(b)(2), 323(b)(1), Apr. 20, 1983, 97 Stat. 90, 120, 121; Pub. L. 98-369, div. A, title I, Sec. 102(c)(1), div. B, title VI, Secs. 2603(c)(2), (d)(2), 2663(j)(5)(B), July 18, 1984, 98 Stat. 622, 1129, 1130, 1171; Pub. L. 99-272, title XIII, Sec. 13205(a)(2)(B), Apr. 7, 1986, 100 Stat. 315; Pub. L. 99-509, title IX, Sec. 9002(b)(1)(B), Oct. 21, 1986, 100 Stat. 1971; Pub. L. 99-514, title III, Sec. 301(b)(12), title XII, Sec. 1272(d)(8), (9), title XVII, Sec. 1704(a)(1), (2), title XVIII, Secs. 1882(a), (b)(1), 1883(a)(11)(A), Oct. 22, 1986, 100 Stat. 2218, 2594, 2779, 2914, 2916; Pub. L. 100-203, title IX, Sec. 9022(b), Dec. 22, 1987, 101 Stat. 1330-295; Pub. L. 100-547, title III, Sec. 3043(c)(1), title VIII, Sec. 8007(c), Nov. 10, 1988, 102 Stat. 3642, 3783; Pub. L. 101-239, title X, Sec. 10204(a)(1), Dec. 19, 1989, 103 Stat. 2474; Pub. L. 101-508, title V, Secs. 5123(a)(3), 5130(a)(2), title XI, Sec. 11331(b), Nov. 5, 1990, 104 Stat. 1388-284, 1388-289, 1388-467; Pub. L. 103-66, title XIII, Sec. 13207(b), Aug. 10, 1993, 107 Stat. 468; Pub. L. 103-296, title I, Sec. 108(h)(1), title III, Sec. 319(a)(4), Aug. 15, 1994, 108 Stat. 1487, 1534; Pub. L. 104-188, title I, Sec. 1456(a), Aug. 20, 1996, 110 Stat. 1818; Pub. L. 105-34, title IX, Sec. 922(a), Aug. 5, 1997, 111 Stat. 879.)

References in Text

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

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

Amendments

1997--Subsec. (k). Pub. L. 105-34 added subsec. (k).
 1996--Subsec. (a)(8). Pub. L. 104-188 inserted before semicolon at

end `` , but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires''.

1994--Subsec. (c)(1). Pub. L. 103-296, Sec. 108(h)(1), substituted ``Commissioner of Social Security'' for ``Secretary of Health and Human Services''.

Subsec. (c)(2)(C). Pub. L. 103-296, Sec. 319(a)(4), inserted at end ``except service which constitutes `employment' under section 3121(y),''.

Subsecs. (c)(2)(E), (e)(2), (g)(1), (2)(A), (B). Pub. L. 103-296, Sec. 108(h)(1), substituted ``Commissioner of Social Security'' for ``Secretary of Health and Human Services''.

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

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

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

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

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

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

Subsec. (k). Pub. L. 101-508, Sec. 11331(b)(2), added subsec. (k).

1989--Subsec. (g)(3). Pub. L. 101-239 substituted ``to apply'' for ``not to apply'' in heading and ``shall apply'' for ``shall not apply'' in text.

1988--Subsec. (a)(15). Pub. L. 100-647, Sec. 3043(c)(1), added par. (15).

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

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

1986--Subsec. (a)(8). Pub. L. 99-514, Sec. 1272(d)(8), inserted ``and'' after ``of the employer),'' and struck out ``and section 931 (relating to income from sources within possessions of the United States)'' after ``living abroad)''.

Subsec. (a)(9). Pub. L. 99-514, Sec. 1272(d)(9), amended par. (9)

generally. Prior to amendment, par. (9) read as follows: ``the term `possession of the United States' as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa.'`.

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

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

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

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

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

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

Pub. L. 99-272 substituted ``medicare qualified government employment (as defined in section 3121(u)(3))' for ``medicare qualified Federal employment (as defined in section 3121(u)(2))'.

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

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

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

Subsec. (g)(5). Pub. L. 99-514, Sec. 1882(a), added par. (5).

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

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

``(B) the deduction provided by section 1202 shall not apply.'`

Subsec. (j). Pub. L. 99-514, Sec. 1882(b)(1)(A), added subsec. (j). 1984--Subsec. (a)(14). Pub. L. 98-369, Sec. 2603(d)(2), added par.

(14)

Subsec. (c)(1), (2)(E). Pub. L. 98-369, Sec. 2663(j)(5)(B), substituted ``Secretary of Health and Human Services' for ``Secretary of Health, Education, and Welfare'.

Subsec. (c)(2)(G). Pub. L. 98-369, Sec. 2603(c)(2), added subpar. (G).

Subsec. (g)(1), (3)(A), (B). Pub. L. 98-369, Sec. 2663(j)(5)(B), substituted ``Secretary of Health and Human Services' for ``Secretary of Health, Education, and Welfare'.

Subsec. (i). Pub. L. 98-369, Sec. 102(c)(1), added subsec. (i).

1983--Subsec. (a)(11). Pub. L. 98-21, Sec. 323(b)(1), struck out ``in the case of an individual described in section 911(d)(1)(B),' before ``the exclusion'.

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

Subsec. (b). Pub. L. 98-21, Sec. 322(b)(2), as amended by Pub. L.

101-508, Sec. 5130(a)(2), inserted `` , except as provided by an agreement under section 233 of the Social Security Act'' in text preceding par. (1).

Pub. L. 98-21, Sec. 321(e)(3), substituted ``employees of foreign affiliates of American employers'' for ``employees of foreign subsidiaries of domestic corporations'' in cl. (A) of provisions following par. (2).

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

1981--Subsec. (a)(8). Pub. L. 97-34, Sec. 111(b)(3), substituted ``relating to citizens or residents of the United States living abroad'' for ``relating to income earned by employees in certain camps''.

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

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

Pub. L. 95-600, Sec. 703(j)(8)(A), substituted ``subsection (h)'' for ``subsection (i)'' wherever appearing in last par.

Subsec. (c)(6). Pub. L. 95-600, Sec. 703(j)(8)(B), substituted ``subsection (g)'' for ``subsection (h)''.

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

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

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

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

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

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

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

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

1973--Subsec. (b)(1)(H). Pub. L. 93-233 substituted ``\$13,200'' for

``\$12,600''.

Pub. L. 93-66 substituted ``\$12,600'' for ``\$12,000''.

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

Subsec. (b)(1)(F). Pub. L. 92-336, Sec. 203(b)(1)(A), inserted ``and before 1973'' after ``1971''.

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

Subsec. (i). Pub. L. 92-603, Sec. 121(b)(2), added subsec. (i).

1971--Subsec. (b)(1)(E). Pub. L. 92-5, Sec. 203(b)(1)(A), inserted ``and beginning before 1972'' after ``1967'' and substituted ``; and'' for ``; or''.

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

1968--Subsec. (a)(10). Pub. L. 90-248, Sec. 118(a), added par. (10).

Subsec. (b). Pub. L. 90-248, Sec. 502(b)(1), designated existing provisions of second sentence respecting ``wages'' as item ``A'' and added item ``B''.

Subsec. (b)(1)(D). Pub. L. 90-248, Sec. 108(b)(1)(A), inserted ``and before 1968'' after ``1965''.

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

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

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

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

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

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

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

1965--Subsec. (a). Pub. L. 89-97, Sec. 312(b), substituted ``2,400'' for ``\$1,800'' in cls. (i) to (iv) and ``\$1,600'' for ``\$1,200'' in cls.

(ii) and (iv) of second sentence following par. (9), wherever appearing.

Subsec. (b)(1)(C). Pub. L. 89-97, Sec. 320(b)(1)(C), inserted ``and before 1966'' after ``1958'' and substituted ``and'' for ``or'' after the semicolon.

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

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

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

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

Subsec. (e)(2)(B). Pub. L. 89-97, Sec. 341(a), substituted ``his second taxable year ending after 1963'' for ``his second taxable year ending after 1962''.

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

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

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

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

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

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

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

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

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

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

Subsec. (c)(2). Pub. L. 86-778, Sec. 106(b), excluded service described in section 3121(b)(11), (12), or (15) performed in the United

States (as defined in section 3121(e)(2)) by a citizen of the United States.

Subsec. (e)(2)(B). Pub. L. 86-778, Sec. 101(a), substituted ``1959'' for ``1956''.

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

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

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

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

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

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

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

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

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

1956--Subsec. (a). Act Aug. 1, 1956, Sec. 201(i), amended generally last two sentences to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than \$1,800 to deem their net earnings to be 66 $\frac{2}{3}$ percent of such gross income, and those whose gross income is more than \$1,800 and the net earnings are less than \$1,200, to deem the net earnings to be \$1,200, and to provide for the computation of net earnings for members of partnerships.

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

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

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

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

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

Subsec. (b). Act Sept. 1, 1954, Sec. 201(b), increased the limitation on self-employment income subject to tax, for taxable years ending after 1954, from \$3,600 to \$4,200 and included as ``wages'', for purposes of computing ``self-employment income,' ' remuneration of United

States citizens employed by a foreign subsidiary of a domestic corporation which has agreed to have the Social Security insurance system extended to service performed by such citizens.

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

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

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

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

Effective Date of 1997 Amendment

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

Effective Date of 1996 Amendment

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

Effective Date of 1994 Amendment

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

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

Effective Date of 1993 Amendment

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

Effective Date of 1990 Amendment

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

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

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

Effective Date of 1989 Amendment

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

Effective Date of 1988 Amendment

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

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

Effective Date of 1987 Amendment

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

Effective Date of 1986 Amendments

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

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

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

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

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

Amendment by Pub. L. 99-272 applicable to services performed after

Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

Effective Date of 1984 Amendment

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

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

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

Effective Date of 1983 Amendment

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

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

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

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

Effective Date of 1982 Amendment

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

Effective Date of 1981 Amendment

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

Effective Date of 1978 Amendment

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

Effective Date of 1978 Amendment; Election of Prior Law

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

Effective Date of 1977 Amendment

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

Effective Date of 1976 Amendment

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

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

Effective Date of 1975 Amendment

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

Effective Date of 1974 Amendment

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

Effective Date of 1973 Amendments

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

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

Effective Date of 1972 Amendments

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

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

Effective Date of 1971 Amendment

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

Effective Date of 1968 Amendment

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

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

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

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

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

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

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

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

Effective Date of 1966 Amendment

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

Effective Date of 1965 Amendment

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

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

Section 319(e) of Pub. L. 89-97, as amended by Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ``The amendments

made by this section [amending this section and sections 402 and 411 of Title 42] shall apply with respect to taxable years beginning after December 31, 1950. For such purpose, chapter 2 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as applying to all taxable years beginning after such date.'

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

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

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

Effective Date of 1964 Amendments

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

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

Effective Date of 1961 Amendment

Section 202(b) of Pub. L. 87-64 provided that: ``The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [June 30, 1961]; except that no monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare] for the month in which this

Act is enacted or any prior month shall be payable or increased by reason of such amendment, and no lump-sum death payment under such title shall be payable or increased by reason of such amendment in the case of any individual who died prior to the date of enactment of this Act [June 30, 1961].''

Effective Date of 1960 Amendment

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

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

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

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

Effective Date of 1958 Amendment

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

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

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

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

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

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

1402(f) of such Code.''

Effective Date of 1957 Amendment

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

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

''(b) Notwithstanding subsection (a), in the case of any individual who--

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

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

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

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

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

Effective Date of 1956 Amendment

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

Effective Date of 1954 Amendment

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

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

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

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

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

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

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

“(a) In General.--Notwithstanding any other provision of law, if--
“(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,
“(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act [42 U.S.C. 433] was in effect, and
“(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

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

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

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

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

Plan Amendments Not Required Until January 1, 1989

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

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

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

“(1) In general.--Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1986, as redesignated by subsection (a)(2)(B) of this section, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in

which this Act is enacted [enacted Oct. 22, 1986], may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed--

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

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

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

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

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

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

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

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

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 [this chapter] and title II of the Social

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

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

Election of Exemption of Fees From Coverages Self-Employment Income

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

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

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

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

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

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

Section 331(b) of Pub. L. 89-97 established, for purposes of computing interest, Apr. 15, 1967, as the due date for the payment, under section 1401 of this title, of taxes due for any taxable year ending before Jan. 1, 1966 solely by reason of the filing of a certificate or supplementary certificate under subsec. (e)(5) of this section, which was struck out by section 115(b)(2) of Pub. L. 90-248.

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

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

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

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

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

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

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

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

Section 105(d)(2) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 3121 of this title, provided that no

monthly benefits under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare], for September 1960 or any prior month shall be payable or increased by reason of the provisions of subsections (b) and (c) of section 105 or the amendments made by such subsections [adding subsec. (g) to this section and enacting notes under this section and section 3121 of this title], and no lump-sum death payment under title II of the Social Security Act shall be payable or increased by reason of such provisions or amendments in the case of any individual who died prior to Sept. 13, 1960.

Section Referred to in Other Sections

This section is referred to in sections 32, 162, 219, 401, 408, 475, 879, 981, 2032A, 3121, 3127, 6103, 6521, 6654 of this title; title 42 sections 401, 402, 411, 430.

HB

241

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)
Date Referred to Committee: February 9, 2004

FURTHER REFERRALS:

Date of Committee Action: 4/2/04

The FINANCE Committee considered:

HB 241

HOUSE BILL NO. 241

MUNICIPAL PROPERTY TAX EXEMPTION

"An Act relating to optional exemptions from municipal property taxes on residential property."

Recommends it be replaced with [] HCS or CS for HB 241 (FIN)
For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title New Title


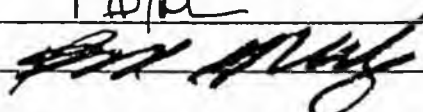
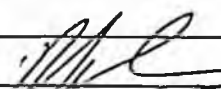
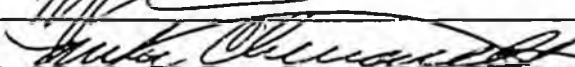
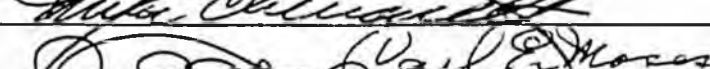
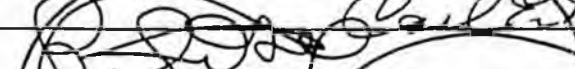
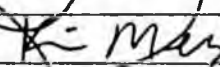
- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of
Abbrev
for
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV			✓	

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
CED	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Hamber	X			
	STUTES			✓	
	Toule			✓	
	Chevalier	X			
	MOSES	X			
	FOSTER	X			
Chair: 	Mayor	X			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 241(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Municipal Property Tax Exemption RDU Revenue Programs & Services
 Component Tax Division
 Sponsor Representative Chenault
 Requester House Finance Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	***	***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*** See page 2 for discussion of possible revenue effects on the state.

Prepared by: Randall Hoffbeck, State Petroleum Property Assessor Phone 269-1029
 Division Tax Division Date/Time 4/23/04 11:52 AM
 Approved by: Steve Porter, Deputy Commissioner Date 4/23/2004
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 241(FIN)

ANALYSIS CONTINUATION

This legislation would allow municipalities to exempt – by a vote of the public – up to \$25,000 in annual assessed valuation of each parcel of residential property. In addition it would allow a \$10,000 exemption for the residence of a law enforcement officer in an "eligible area". Currently the optional residential exemption is capped at \$10,000. This legislation also extends the deteriorated property exemption from 5 years to 10 years and extends the exemption to include demolition and removal of the improvements.

This could have an indirect effect on state revenues if municipalities increase their residential property assessment exemption and then increase their overall mill rate to make up for the lost revenue.

Analysis:

Assuming all municipalities with oil and gas property took advantage of the provision in this legislation and adopted a \$25,000 exemption for residential property owners plus a \$10,000 law enforcement officer exemption, and assuming every affected municipality raised its property tax mill rate to fully recover the revenue loss from the lower assessment valuation on residential property, then there would be some annual revenue loss to the state.

The extension of the deteriorated property exemption is not expected to have an additional fiscal impact on the state.

However:

It is unknown which, if any, municipalities would adopt the higher exemption rate, if adopted, whether they would allow the maximum exemption, and if the municipalities would attempt to recover all lost revenue by increasing the mill rate.

Therefore the Department of Revenue cannot accurately project what effect this legislation would have on state property tax revenues. See attached spreadsheet for further analysis.

**HB 241- Residential \$25,000 Exemption.
Estimated Effects with No Other Revenue Source**

		Residential Property Value	Mill Rates	Residential Estimated Taxes	Residential Savings	Commercial Property Value	Commercial Estimated Taxes	Comm. Tax Increase	AS 43.56 Value	Oil & Gas Est. Taxes	Oil & Gas Revenues Diverted to Local Muni.
Fairbanks North Star Borough	Pre-HB 241	\$ 150,000	0.0154	\$ 2,310		\$ 500,000	\$ 7,702		\$ 270,805,700	4,171,220.20	
	Post-HB 241	\$ 125,000	0.0162	\$ 2,019	(291.30)	\$ 500,000	\$ 8,077	\$ 375	\$ 270,805,700	4,374,380.56	\$ 203,160
Kenai Peninsula Borough	Pre-HB 241	\$ 150,000	0.0065	\$ 975		\$ 500,000	\$ 3,250		\$ 638,617,190	4,151,011.74	
	Post-HB 241	\$ 125,000	0.0068	\$ 844	(131.02)	\$ 500,000	\$ 3,376	\$ 126	\$ 638,617,190	4,311,817.90	\$ 160,806
North Slope Borough	Pre-HB 241	\$ 150,000	0.0186	\$ 2,784		\$ 500,000	\$ 9,280		\$ 10,463,871,080	194,209,447.24	
	Post-HB 241	\$ 125,000	0.0186	\$ 2,321	(463.43)	\$ 500,000	\$ 9,282	\$ 2	\$ 10,463,871,080	194,256,765.94	\$ 47,319
City of Valdez	Pre-HB 241	\$ 150,000	0.0200	\$ 3,000		\$ 500,000	\$ 10,000		\$ 657,583,710	13,151,674.20	
	Post-HB 241	\$ 125,000	0.0203	\$ 2,534	(466.05)	\$ 500,000	\$ 10,136	\$ 136	\$ 657,583,710	13,330,265.73	\$ 178,592

Estimated total revenue loss, by municipality, if exemption is increased to \$25K

	Total	Oil & Gas Taxes	Local Tax	
Fairbanks	\$ 3,184,949	\$ 203,160	\$ 2,981,788	\$ 589,877
Kenai	\$ 1,036,880	\$ 160,806	\$ 876,074	
North Slope	\$ 48,442	\$ 47,319	\$ 1,123	
Valdez	\$ 281,133	\$ 178,592	\$ 102,541	
	\$ 4,551,403	\$ 589,877	\$ 3,961,527	

This worksheet estimates the effect of implementing an increase in the Homestead exemption from the current \$10K limit to \$25K. It does not include an estimate for the law enforcement officer section of the legislation as those numbers are not available. The decriated property exemption extends an existing exemption from 5 years to 10 years and would not increase the cost to the state.

The numbers provided for residential and commercial values are hypothetical, however, the resulting revenues are reflective of actual property tax increases/decreases if there are no other revenue sources to draw from or service are not cut to correspond with overall tax revenue drop based upon the increased local exemption. The values for oil and gas are actual numbers and represent actual estimated loss of state revenue, assuming all municipalities increase the local exemption to the \$25K and no other revenue sources are identified nor are existing services cut.

The mill rates used for the "Pre-HB 241" is actual mill rates from municipalities for 2003 tax year. The mill rate used for the "Post-HB 241" is a calculated rate. The calculation was done in such a manner to raise the same revenues as the "pre-exemption" mill rates. This assumes all lost tax revenue will be raised from the property tax with no revenue from other sources.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 241(STA)
(H) Publish Date: 2/9/04

Revision Date/Time (Note if correction):
Title Municipal Property Tax Exemption
Sponsor Representative Chenault
Requester House Community & Regional Affairs

Dept. Affected: DCED
RDU Comm Assist and Econ Dev (405)
Component Community Advocacy
Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Current law provides that a municipality may exclude, exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. This legislation introduces a restriction on this optional exemption such that an exclusion or exemption authorized by this subsection may not be applied with respect to taxes levied in a service area to fund the special services. This change would have no fiscal impact on the department.

Prepared by: Gene Kane, Director Phone (907) 269-4580
Division Community Advocacy Date/Time 12/30/03 1:43 PM
Approved by: Edgar Blatchford, Commissioner Date 12/30/2003
Agency Department of Community and Economic Development

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 23, 2004

SUBJECT: Municipal Tax Exemption for Residences of Law Enforcement Officers (CSHB 241(FIN))

TO: Representative John Harris
Representative Bill Williams
Co-chairs, House Finance Committee
Attn: Louanne Christian

FROM: Tamara Brandt Cook
Director *TBC*

Here is the version of HB 241 incorporating certain amendments adopted by the House Finance Committee. However, Amendment No. 1 dealing with an optional municipal tax exemption for residences of law enforcement officers that are located within certain eligible areas has been changed for purposes of this draft at the request of Louanne Christian, Finance Committee Assistant.

Under Amendment No. 1 an eligible area is one that is eligible for designation as a special zone or an area under certain federal programs, or is an area with a statistically higher crime rate. The federal programs are identified by common names, rather than by citation of federal laws or regulations. Indeed, the programs may not have been established specifically by federal law or regulation, so use of the common name may be the best identifier available. However, it is also possible that these names may be inaccurate or applicable to more than one federal program. A more likely possibility is that a listed program will evolve or be replaced by a new program over time, causing this statute to become obsolete. This potential problem has been avoided in this draft by describing the federal programs that trigger eligibility of an area in more general terms.

Please let me know whether you would like to return to the original language of Amendment No. 1 or make other changes to this draft.

TBC:mcd
04-449.mcd

Enclosure

Alaska **Department of Community
and Economic Development**

Division of Community Advocacy

550 W. 7th Avenue, Suite 1770, Anchorage, AK 99501-3510

Telephone: (907) 269-4501 • Fax: (907) 269-4539 • Text Telephone: (907) 465-5437

Email: questions@dced.state.ak.us • Website: www.dced.state.ak.us/cbd/

April 24, 2004

The Honorable Representative Bill Williams
Co-Chair, House Finance Committee
State Capitol, Room 515
Juneau, AK 99801-1182

Dear Representative Williams,

During the House Finance Committee hearing on HB 241 this morning, there were several amendments made to the bill. My testimony on one of the bills amendments seem to be approved by the majority of the members, but afterwards there was some confusion regarding the exemption for the deteriorated property.

Please allow me to explain the need for my suggested amendment. The amendment on version "S" of the bill was an attempt to allow a municipality to extend an exemption for certain property, considered deteriorated, from five to ten years. Unfortunately, the amendment, as originally offered, extended the "deferral" of taxes rather than the "exemption" of taxes. My suggested amendment was to remove the first sentence of the amendment (Page 1, lines 13-14 and Page 2, Lines 1-3 and a portion of line 4). Along with that deletion, the word "five" on Page 2, line 6 should be changed to read "ten". This will allow municipalities to "exempt" certain types of properties for up to ten years. The "deferral" of taxes language will not change.

These changes will remove the confusion for the assessors around the state and accomplish the intent of extending the exemption period from five to ten years. In my opinion, the language concerning property located within a "city center or urban center" is unnecessary and the exemption may go forth as the individuals who requested this change in state law intended and this change makes it easier for a municipality to administer.

I will be happy to address any further questions that you or the committee may have on this issue.

Sincerely,

Steve Van Sant

Steve Van Sant
State Assessor

23-LS0851U
Cook
4/23/04

CS FOR HOUSE BILL NO. 241(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE CHENAULT

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to optional exemptions from municipal property taxes on residential
2 property and to an exemption from and deferral of municipal property taxes on certain
3 types of deteriorated property."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 29.45.050(a) is amended to read:

6 (a) A municipality may exclude or exempt or partially exempt residential
7 property from taxation by ordinance ratified by the voters at an election. An
8 exclusion or exemption authorized by this subsection may be applied with respect
9 to taxes levied in a service area to fund the special services. An exclusion or
10 exemption authorized by this subsection [SECTION] may not exceed the assessed
11 value of \$25,000 [\$10,000] for any one residence.

12 * Sec. 2. AS 29.45.050(o) is amended to read:

13 (o) A municipality may by ordinance partially or totally exempt all or some
14 types of deteriorated property from taxation for up to 10 [FIVE] years beginning on or

1 any time after the day substantial rehabilitation, renovation, demolition, removal, or
2 replacement of any structure on the property begins. A municipality may by
3 ordinance permit deferral of payment of taxes on all or some types of deteriorated
4 property for up to five years beginning on or any time after the day substantial
5 rehabilitation, renovation, demolition, removal or replacement of any structure on the
6 property begins. However, if the ownership of property for which a deferral has been
7 granted is transferred, all tax payments deferred under this subsection are immediately
8 due and the deferral ends, or, if ownership of any part of the property is transferred, all
9 tax payments are immediately due. The amount deferred each year is a lien on that
10 property for that year. Only one exemption and only one deferral may be granted to
11 the same property under this subsection, and, if an exemption and a deferral are
12 granted to the same property, both may not be in effect on the same portion of the
13 property during the same time. An ordinance adopted under this subsection must
14 include specific eligibility requirements and require a written application for each
15 exemption or deferral. In this subsection, "deteriorated property" means real property
16 that is commercial property not used for residential purposes or that is multi-unit
17 residential property with at least eight residential units, and that meets one of the
18 following requirements:

19 (1) within the last five years, has been the subject of an order by a
20 government agency requiring environmental remediation of the property or
21 requiring the property to be vacated, condemned, or demolished by reason of
22 noncompliance with laws, ordinances, or regulations;

23 (2) has a structure on it not less than 15 years of age that has
24 undergone substantial rehabilitation, renovation, demolition, removal, or
25 replacement, subject to any conditions prescribed in the ordinance; or

26 (3) is located in a deteriorating or deteriorated area with boundaries
27 that have been determined by the municipality.

28 * Sec. 3. AS 29.45.050 is amended by adding a new subsection to read:

29 (s) A municipality may by ordinance designate an area within its boundaries
30 as an eligible area for purposes of this subsection and exempt from taxation an amount
31 not to exceed \$10,000 of the assessed value of real property within the area that is

1 owned and occupied as a permanent place of abode by a law enforcement officer. The
2 ordinance must include a definition of "law enforcement officer." A municipality that
3 adopts an ordinance under this subsection may not request state funds to cover any
4 municipal budget shortfall caused by the ordinance. In this subsection, "eligible area"
5 means an area

6 (1) that meets the eligibility requirements under a federal program of
7 special assistance for urban development, neighborhood revitalization, or law
8 enforcement, without regard to whether an application for the federal assistance on
9 behalf of the area has been made or whether the area has actually received or is
10 receiving the federal assistance; or

11 (2) with a statistically higher occurrence of crime than the municipality
12 as a whole.

13 * Sec. 4. The uncodified law of the State of Alaska enacted in sec. 2, ch. 8, SLA 1999, as
14 amended by sec. 1, ch. 102, SLA 2002, is amended to read:

15 Sec. 2. AS 29.45.050(o) is repealed July 1, 2010 [2006].

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 241(STA)
(H) Publish Date: 2/9/04

Revision Date/Time (Note if correction):
Title Municipal Property Tax Exemption
Dept. Affected: DCED
RDU Comm Assist and Econ Dev (405)
Component Community Advocacy

Sponsor Representative Chenault
Requester House Community & Regional Affairs
Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Current law provides that a municipality may exclude, exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. This legislation introduces a restriction on this optional exemption such that an exclusion or exemption authorized by this subsection may not be applied with respect to taxes levied in a service area to fund the special services. This change would have no fiscal impact on the department.

Prepared by: Gene Kane, Director Phone (907) 269-4580
Division Community Advocacy Date/Time 12/30/03 1:43 PM
Approved by: Edgar Blatchford, Commissioner Date 12/30/2003
Agency Department of Community and Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 241(STA)
(H) Publish Date: 2/9/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Municipal Property Tax Exemption RDU Revenue Programs & Services
Component Tax Division
Sponsor Representative Chenault
Requester House State Affairs Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	***	***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*** See page 2 for discussion of possible revenue effects on the state.

Prepared by: Dan Dickinson, Director Phone 269-1033
Division Tax Division Date/Time 1/27/04 6:25 AM
Approved by: Steve Porter, Deputy Commissioner Date 1/27/2004
Agency Department of Revenue

FISCAL NOTE #3

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 241(STA)

ANALYSIS CONTINUATION

This legislation would allow municipalities to exempt – by a vote of the public – up to \$50,000 in annual assessed valuation of each parcel of residential property. In addition it would allow a \$20,000 exemption for the principle residence of volunteer EMT/firefighters. Currently these optional exemptions are capped at \$10,000 each.

This could have an indirect effect on state revenues if municipalities increase their residential property assessment exemption and then increase their overall mill rate to make up for the lost revenue.

Analysis:

Assuming all municipalities with oil and gas property took advantage of the provision in this legislation and adopted a \$50,000 exemption for residential property owners plus a \$20,000 EMT/Firefighter exemption, and assuming every affected municipality raised its property tax mill rate to fully recover the revenue loss from the lower assessment valuation on residential property, then there would be some annual revenue loss to the state.

However:

It is unknown which, if any, municipalities would adopt the higher exemption rate, if adopted, whether they would allow the maximum exemption, and if the municipalities would attempt to recover all lost revenue by increasing the mill rate.

Therefore the Department of Revenue cannot accurately project what effect this legislation would have on state property tax revenues. See attached spreadsheet for further analysis.

**HB 241- Residential \$50,000 Exemption.
Estimated Effects with No Other Revenue Source**

		Residential Property Value	Mill Rates	Residential Estimated Taxes	Residential Savings	Commercial Property Value	Commercial Estimated Taxes	Comm. Tax Increase	AS 43.56 Value	Oil & Gas Est. Taxes	Oil & Gas Revenues Diverted to Local Muni.
Fairbanks North Star Borough	Pre-HB 241	\$ 150,000	0.015403	\$ 2,310		\$ 500,000	\$ 7,702	\$	270,805,700	4,171,220.20	
	Post-HB 241	\$ 100,000	0.01758	\$ 1,758	(552.45)	\$ 500,000	\$ 8,790	\$ 1,089	270,805,700	4,760,764.21	\$ 589,544
Kenai Peninsula Borough	Pre-HB 241	\$ 150,000	0.0065	\$ 975		\$ 500,000	\$ 3,250	\$	638,617,190	4,151,011.74	
	Post-HB 241	\$ 100,000	0.007218	\$ 722	(253.20)	\$ 500,000	\$ 3,609	\$ 359	638,617,190	4,609,538.88	\$ 458,527
North Slope Borough	Pre-HB 241	\$ 150,000	0.01856	\$ 2,784		\$ 500,000	\$ 9,280	\$	10,463,871,080	194,209,447.24	
	Post-HB 241	\$ 100,000	0.018572	\$ 1,857	(926.80)	\$ 500,000	\$ 9,286	\$ 6	10,463,871,080	194,335,013.70	\$ 125,566
City of Valdez	Pre-HB 241	\$ 150,000	0.02	\$ 3,000		\$ 500,000	\$ 10,000	\$	657,583,710	13,151,674.20	
	Post-HB 241	\$ 100,000	0.020741	\$ 2,074	(925.90)	\$ 500,000	\$ 10,371	\$ 371	657,583,710	13,638,943.73	\$ 487,270

Estimated total revenue loss, by municipality, if exemption is increased to \$50K

	Total	Oil & Gas Taxes	Local Tax	
Fairbanks	\$ 8,493,199	\$ 589,544	\$ 7,903,655	
Kenai	\$ 2,765,014	\$ 458,527	\$ 2,306,487	
North Slope	\$ 129,177	\$ 125,566	\$ 3,611	
Valdez	\$ 749,687	\$ 487,270	\$ 262,417	
	\$ 12,137,077	\$ 1,660,907	\$ 10,476,170	\$ 1,660,907

This worksheet estimates the effect of implementing an increase in the Homestead exemption from the current \$10K limit to \$50K. It does not include an estimate for the volunteer firefighter/emergency medical volunteer section of the legislation as those numbers are not available.

The numbers provided for residential and commercial values are hypothetical, however, the resulting revenues are reflective of actual property tax increases/decreases if there are no other revenue sources to draw from or service are not cut to correspond with overall tax revenue drop based upon the increased local exemption. The values for oil and gas are actual numbers and represent actual estimated loss of state revenue, assuming all municipalities increase the local exemption to the \$50K and no other revenue sources are identified or are existing services cut.

The mill rates used for the "Pre-HB 241" is actual mill rates from municipalities for 2003 tax year. The mill rate used for the "Post-HB 241" is a calculated rate. The calculation was done in such a manner to raise the same revenues as the "pre-exemption" mill rates. This assumes all lost tax revenue will be raised from the property tax with no revenue from other sources.

Fiscal Note #3

Page 3 of 3

Adopted

4/23/04

AMENDMENT NO. 1

OFFERED TO CSHB 241 (STA)

BY Chenault

³ Page ~~1~~, line ~~11~~ to Page ² ~~2~~, line ~~4~~.

³ Amend bill section ~~2~~ to read:

* Sec. ³ ~~2~~. AS 29.45.050 is amended by adding a new subsection to read:

(s) A municipality may by ordinance designate an area within its boundaries as [A HIGH CRIME] an eligible area and exempt from taxation an amount not to exceed \$10,000 of the assessed value of real property within the area that is owned and occupied as a permanent place of abode by a law enforcement officer. The ordinance must include a definition of "law enforcement officer." A municipality that adopts an ordinance under this subsection may not request state funds to cover any municipal budget shortfall caused by the ordinance. In this subsection, "eligible area" means an area within the municipality that would be eligible for designation as an urban empowerment zone under the urban empowerment zones program of the federal department of housing and urban development, as a HUB zone under the HUBzone empowerment program of the federal small business administration, a neighborhood revitalization area as designated by the federal department of housing and urban development or as an eligible neighborhood under the weed and seed program of the federal department of justice, whether or not the area is actually so designated, or an area within the municipality with a statistically higher occurrence of crime than other areas of the municipality.

23-LS0851\S
Cook
4/22/04

4/23/04
Adopted

CS FOR HOUSE BILL NO. 241()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE CHENAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to optional exemptions from municipal property taxes on residential
2 property and to an exemption from and deferral of municipal property taxes on certain
3 types of deteriorated property."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 29.45.050(a) is amended to read:

6 (a) A municipality may exclude or exempt or partially exempt residential
7 property from taxation by ordinance ratified by the voters at an election. An
8 exclusion or exemption authorized by this subsection may be applied with respect
9 to taxes levied in a service area to fund the special services. An exclusion or
10 exemption authorized by this subsection [SECTION] may not exceed the assessed
11 value of \$25,000 [\$10,000] for any one residence.

12 * Sec. 2. AS 29.45.050(o) is amended to read:

13 (o) ~~A municipality may by ordinance partially or totally exempt all or~~
14 ~~some types of deteriorated property from taxation for up to 10 years beginning~~

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~~on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins if the property is located in a city center or urban center identified in a comprehensive plan or other planning document adopted by the municipality.~~ A municipality may by ordinance partially or totally exempt all or some types of deteriorated property from taxation for up to ~~five~~¹⁰ years beginning on or any time after the day substantial rehabilitation, renovation, ~~demolition, removal,~~ or replacement of any structure on the property begins. A municipality may by ordinance permit deferral of payment of taxes on all or some types of deteriorated property for up to ~~five~~¹⁰ years beginning on or any time after the day substantial rehabilitation, renovation, ~~demolition, removal~~ or replacement of any structure on the property begins. However, if the ownership of property for which a deferral has been granted is transferred, all tax payments deferred under this subsection are immediately due and the deferral ends, or, if ownership of any part of the property is transferred, all tax payments are immediately due. The amount deferred each year is a lien on that property for that year. Only one exemption and only one deferral may be granted to the same property under this subsection, and, if an exemption and a deferral are granted to the same property, both may not be in effect on the same portion of the property during the same time. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection, "deteriorated property" means real property that is commercial property not used for residential purposes or that is multi-unit residential property with at least eight residential units, and that meets one of the following requirements:

- (1) ~~within the last five years,~~^{Text for 2010} has been the subject of an order by a government agency requiring environmental remediation of the property or requiring the property to be vacated, condemned, or demolished by reason of noncompliance with laws, ordinances, or regulations;
- (2) has a structure on it not less than 15 years of age that has undergone substantial rehabilitation, renovation, demolition, removal, or replacement, subject to any conditions prescribed in the ordinance; or
- (3) is located in a deteriorating or deteriorated area with boundaries

1 that have been determined by the municipality.

2 * Sec. 3. AS 29.45.050 is amended by adding a new subsection to read:

3 (s) A municipality may by ordinance designate an area within its boundaries
4 as a high crime area and exempt from taxation an amount not to exceed \$10,000 of the
5 assessed value of real property within the area that is owned and occupied as a
6 permanent place of abode by a law enforcement officer. The ordinance must include a
7 definition of "law enforcement officer." A municipality that adopts an ordinance
8 under this subsection may not request state funds to cover any municipal budget
9 shortfall caused by the ordinance.

10 * Sec. 4. The uncodified law of the State of Alaska enacted in sec. 2, ch. 8, SLA 1999, as
11 amended by sec. 1, ch. 102, SLA 2002, is amended to read:

12 Sec. 2. AS 29.45.050(o) is repealed July 1, 2010 [2006].

Homer Electric Association
Testimony on HB453
4/23/04

Homer Electric Association is opposed to HB 453.

The primary concern is the ability to govern the cost of wholesale power for our 20,000 members on the Kenai Peninsula.

HEA currently purchases its wholesale power from Chugach through our generation and transmission subsidiary, Alaska Electric and Energy Cooperative.

The contract with Chugach will expire at the end of 2013. The time remaining is just enough to appropriately plan for and create new sources of power.

Of course HEA's interest is to get the best reasonable cost. The cost of wholesale power for HEA is currently at Chugach's cost plus the margin or profit allowed by the RCA.

Chugach, in a recent case argued before the RCA, asked for a rate-making method that had not been used by the electric cooperatives involved.

Beside the unfamiliarity with the method, Chugach requested a substantial increase in the amount of margin HEA paid.

This request applied to MEA and Seward as well. HEA, MEA and Seward opposed this request and after substantial expert testimony and several weeks of hearings, the commission ruled in our favor generally following the precedent that has been established since the 1980's.

Chugach has publicly criticized the RCA about its ruling, disregarding the solid case presented by HEA and the others. This criticism appears to be no small driver for the movement of HB 453.

Given the fact that Chugach has informed its members that HEA, MEA and Seward are now subsidized by the rest of its members, we become concerned about how the undefined possibilities of HB 453 may be used by CEA over time to achieve what it lost in the rate case.

HEA participated in the Railbelt Energy Study. Chugach, ML&P, GVEA and Seward were a part as well.

We realized that Alaska's Railbelt energy needs for the future are best provided by a joint effort, maximizing efficiencies of scale wherever possible.

This approach was eventually adopted as a recommendation for consideration by this Legislature in developing public policy pertaining to the Railbelt electric utilities.

We identified the next most likely electric projects, returning the best cost for all electric consumers on the Railbelt.

Please understand that the Railbelt is a relatively small market compared to electric markets outside of Alaska. New electric projects are therefore limited and become obvious economically.

HEA is concerned that if HB 453 passes, the largest utilities will have the ability to control the best projects we have identified without RCA oversight.

Control can occur simply by not allowing meaningful governance participation of the smaller utilities in the JAA structure.

HEA does not have to join a JAA if the participation is not satisfactory. In that case we would most likely look for power from that JAA at a negotiated price.

If the JAA is not regulated, the JAA member that HEA purchases power from will charge based on what the JAA charges it. In actuality, the JAA member will set the rate that is charged to itself.

The RCA will have the ability to review the wholesale agreement between the JAA member and HEA but will have no ability to review or regulate the agreement between the JAA and its member.

As an alternative, HEA can create its own new sources of power, but remember that the lowest cost sources have been identified and HEA would have a challenge in matching that cost on its own.

In a perfect world, the removal of regulation would save money and cooperatives are driven by the incentive of providing low rates for members instead of high profits for stockholders.

HEA believes that an exemption from regulation should be something requested for a specific project and its economic participants.

There should not be a law that allows the possibility of unbalanced allocation of benefits from generation and transmission projects.

Granting exemption from regulation should only be possible when a true demonstration of unified system operation by the utilities is created.

23-LS0851\S
Cook
4/22/04

CS FOR HOUSE BILL NO. 241()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE CHENAULT

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to optional exemptions from municipal property taxes on residential
2 property and to an exemption from and deferral of municipal property taxes on certain
3 types of deteriorated property."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 29.45.050(a) is amended to read:

6 (a) A municipality may exclude or exempt or partially exempt residential
7 property from taxation by ordinance ratified by the voters at an election. An
8 exclusion or exemption authorized by this subsection may be applied with respect
9 to taxes lev'ed in a service area to fund the special services. An exclusion or
10 exemption authorized by this subsection [SECTION] may not exceed the assessed
11 value of \$25,000 [\$10,000] for any one residence.

12 * Sec. 2. AS 29.45.050(o) is amended to read:

13 (o) A municipality may by ordinance partially or totally exempt all or
14 some types of deteriorated property from taxation for up to 10 years beginning

1 on or any time after the day substantial rehabilitation, renovation, demolition,
2 removal, or replacement of any structure on the property begins if the property
3 is located in a city center or urban center identified in a comprehensive plan or
4 other planning document adopted by the municipality. A municipality may by
5 ordinance partially or totally exempt all or some types of deteriorated property from
6 taxation for up to five years beginning on or any time after the day substantial
7 rehabilitation, renovation, demolition, removal, or replacement of any structure on
8 the property begins. A municipality may by ordinance permit deferral of payment of
9 taxes on all or some types of deteriorated property for up to five years beginning on or
10 any time after the day substantial rehabilitation, renovation, demolition, removal or
11 replacement of any structure on the property begins. However, if the ownership of
12 property for which a deferral has been granted is transferred, all tax payments deferred
13 under this subsection are immediately due and the deferral ends, or, if ownership of
14 any part of the property is transferred, all tax payments are immediately due. The
15 amount deferred each year is a lien on that property for that year. Only one exemption
16 and only one deferral may be granted to the same property under this subsection, and,
17 if an exemption and a deferral are granted to the same property, both may not be in
18 effect on the same portion of the property during the same time. An ordinance
19 adopted under this subsection must include specific eligibility requirements and
20 require a written application for each exemption or deferral. In this subsection,
21 "deteriorated property" means real property that is commercial property not used for
22 residential purposes or that is multi-unit residential property with at least eight
23 residential units, and that meets one of the following requirements:

24 (1) within the last five years, has been the subject of an order by a
25 government agency requiring environmental remediation of the property or
26 requiring the property to be vacated, condemned, or demolished by reason of
27 noncompliance with laws, ordinances, or regulations;

28 (2) has a structure on it not less than 15 years of age that has
29 undergone substantial rehabilitation, renovation, demolition, removal, or
30 replacement, subject to any conditions prescribed in the ordinance; or

31 (3) is located in a deteriorating or deteriorated area with boundaries

1 that have been determined by the municipality.

2 * Sec. 3. AS 29.45.050 is amended by adding a new subsection to read:

3 (s) A municipality may by ordinance designate an area within its boundaries
4 as a high crime area and exempt from taxation an amount not to exceed \$10,000 of the
5 assessed value of real property within the area that is owned and occupied as a
6 permanent place of abode by a law enforcement officer. The ordinance must include a
7 definition of "law enforcement officer." A municipality that adopts an ordinance
8 under this subsection may not request state funds to cover any municipal budget
9 shortfall caused by the ordinance.

10 * Sec. 4. The uncodified law of the State of Alaska enacted in sec. 2, ch. 8, SLA 1999, as
11 amended by sec. 1, ch. 102, SLA 2002, is amended to read:

12 Sec. 2. AS 29.45.050(o) is repealed July 1, 2010 [2006].

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mall Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 23, 2004

SUBJECT: Municipal Tax Exemption for Residences of Law Enforcement Officers (CSHB 241(FIN))

TO: Representative John Harris
Representative Bill Williams
Co-chairs, House Finance Committee
Attn: Louanne Christian

FROM: Tamara Brandt Cook
Director *TBC*

Here is the version of HB 241 incorporating certain amendments adopted by the House Finance Committee. However, Amendment No. 1 dealing with an optional municipal tax exemption for residences of law enforcement officers that are located within certain eligible areas has been changed for purposes of this draft at the request of Louanne Christian, Finance Committee Assistant.

Under Amendment No. 1 an eligible area is one that is eligible for designation as a special zone or an area under certain federal programs, or is an area with a statistically higher crime rate. The federal programs are identified by common names, rather than by citation of federal laws or regulations. Indeed, the programs may not have been established specifically by federal law or regulation, so use of the common name may be the best identifier available. However, it is also possible that these names may be inaccurate or applicable to more than one federal program. A more likely possibility is that a listed program will evolve or be replaced by a new program over time, causing this statute to become obsolete. This potential problem has been avoided in this draft by describing the federal programs that trigger eligibility of an area in more general terms.

Please let me know whether you would like to return to the original language of Amendment No. 1 or make other changes to this draft.

TBC:med
04-449.med

Enclosure

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075



Official Business

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

SPONSOR STATEMENT HB 241 - MUNICIPAL PROPERTY TAX EXEMPTION

This bill has two provisions. One is to give municipalities an option to provide an exemption up to \$50,000 on residential property taxes. This can only be done by ordinance with a vote of the people. It does not affect taxes levied in a service area.

Under current law, municipalities may exempt up to \$10,000 of the assessed value of any single residential property. Five municipalities offer this exemption, Bristol Bay Borough, Kenai Peninsula Borough, Fairbanks North Star Borough, North Slope Borough, and the City of Valdez.

The second provision is to increase the tax exemption on real property from \$10,000 to \$20,000 for a volunteer fire fighter or Emergency medical services worker.



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

January 26, 2004

Representative Bruce Weyhrauch
Alaska State House of Representatives
Chair, House Community and Regional Affairs Committee
State Capitol, Room 102
Juneau, AK 99811

RE: HB 241

Dear Representative Weyhrauch:

HB 241 would allow municipalities the power to voluntarily increase the optional residential property exemption from up to \$10,000, to up to \$50,000. The original optional residential property tax exemption was set in 1970 at \$10,000. HB 241 essentially allows for an inflationary adjustment since 1970 (over 30 years). While this concept is not currently specifically addressed in the Municipal Policy Statement, the Alaska Municipal League has historically supported the concept as a purely optional tax tool for municipalities.

2004 AML Policy states:

Part I. Revenue & Finance

C. Local Taxes

2. Sales and Property Taxes:

The League supports municipal control over sales and property tax. These taxes are the principle sources of local government revenue and, therefore, require local control.

Thank you for hearing this issue, if we can assist you in any way, please call me.

Sincerely,

Kevin Ritchie
Executive Director

cc: Senate Community & Regional Affairs Committee
AML Revenue & Finance Subcommittee

Introduced by: Superman
Date: 04/01/03
Action: Adopted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-035**

**A RESOLUTION SUPPORTING THE PASSAGE OF SENATE BILL 136 AND SIMILAR
LEGISLATION WHICH RAISES THE CURRENT OPTIONAL RESIDENTIAL TAX
EXEMPTION FROM \$10,000 TO \$50,000**

WHEREAS, AS 29.45.050 authorizes municipalities to implement various property tax exemptions; and

WHEREAS, the \$10,000 maximum residential property exemption authorized by AS 29.45.050(a) has remained unchanged since 1974; and

WHEREAS, of the five Alaska municipalities offering this tax exemption, the Kenai Peninsula Borough is the only one to also levy a sales tax; and

WHEREAS, the two percent sales tax levied by the Kenai Peninsula Borough has kept the mill rate to a minimum, thus allowing the State to retain a greater share of the AS 43.56 (Oil and Gas Property) revenues; and

WHEREAS, in October 2002, the voters of the Kenai Peninsula Borough defeated a ballot proposition that would have exempted food from sales tax; and

WHEREAS, over the last decade, property owners have seen a substantial rise in assessed valuations, thereby increasing their tax bills by fifty to one hundred percent in some areas; and

WHEREAS, an increase in the Residential Property Tax Exemption will minimally affect state revenues and should be left to the discretion of the local governing body; and

WHEREAS, a minimal and stable tax rate is a primary factor in residential and economic development; and

WHEREAS, the Kenai Peninsula Borough Assembly has identified an increase in residential property tax exemptions as one of its 2003 legislative priorities; and

WHEREAS, SB 136 and similar legislation will provide a discretionary tax relief mechanism that will benefit bonafide full time residential homeowners;

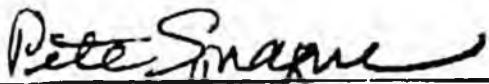
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly urges the 23rd Alaska State Legislature to enact SB 136, increasing the optional residential property exemption from \$10,000 to \$50,000.


SECTION 2. That copies of this resolution shall be provided to Senators Con Bunde, Georgiana Lincoln, Gary Stevens and Tom Wagoner, and to Representatives Mike Chenault, Mike Hawker, Carl Morgan, Paul Seaton and Kelly Wolf.

SECTION 3. That this resolution shall take effect upon its adoption.

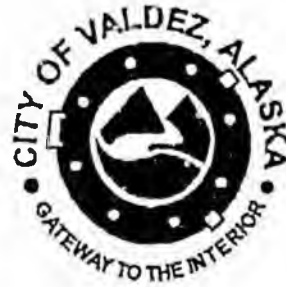
ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF APRIL, 2003.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk





OFFICE OF THE MAYOR

January 20, 2004

Representative Bruce Weyhrauch
Chair, House State Affairs Committee
State Capitol
Room 102
Juneau, Alaska 99801-1182


Dear Representative Weyhrauch:

The City of Valdez supports HB 241. The City currently exempts \$10,000 from assessed value of residential property.

The City's current mill rate is 20 mills. Passage of HB 241 and the implementation of the maximum exemption of \$50,000 by the City of Valdez will not impact the State's share of property tax revenue from oil and gas property located within the City limits.

On behalf of the City of Valdez, I encourage passage of the HB 241.

Sincerely,



Bert L. Cottle
Mayor

HB

243

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 243
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/16/03 1:20 PM Dept. Affected: Governor
 Title An Act establishing audit powers in the BRU OMB
Office of the Governor Component OMB
 Sponsor Rules Committee
 Requester Governor Component No. 2144

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would re-establish an audit function in the Office of the Governor. Funding will be provided by reallocation of existing Office of the Governor funds in the Governor's FY 04 budget; no new money will be required.

The Governor's budget request for the Office of Management and Budget, and as approved by the House, totals \$1,899,500 from the general fund. Of that amount, \$1,767,500 is in personal service costs for 23 full time positions. To help restore the internal performance audit function, the following transfers were accomplished:

Prepared by: Jay Hogan, Deputy Director Phone 465-3559
 Division OMB Date/Time 4/16/03 1:20 PM
 Approved by: Jay Hogan, Deputy Director Date 4/28/2003
 Agency OMB

FISCAL NOTE

**STATE OF ALASKA
2003 LEGISLATIVE SESSION**

BILL NO. HB 243

ANALYSIS CONTINUATION

Three positions were transferred from the Division of Governmental Coordination [DGC was reduced in size and transferred via Executive Order 106 to the Department of Natural Resources] to support the audit and performance evaluation function. Two were classified as Management Analysts and the third as an Internal Auditor.

Funding for the three positions transferred came from reallocations within the Division of Elections [\$196,800] and the Human Rights Commission [\$128,800].

The three "new" positions, plus two existing OMB Internal Audit positions would give the audit and performance evaluation function a staff of five full time positions. It is also envisioned that as circumstances may require, OMB Budget and Policy Analysts would assist in various audit and performance evaluations.

adopted (E) / R/O

**CS FOR HOUSE BILL NO. 243(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION**

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing state agency program performance management and audit powers
2 in the Office of the Governor for the evaluation of agency programs; and providing for
3 an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 37.07.040 is amended by adding a new paragraph to read:

6 (10) establish and administer a state agency program performance
7 management system involving planning, performance budgeting, performance
8 measurement, and program evaluation; the office shall ensure that information
9 generated under this system is useful for managing and improving the efficiency and
10 effectiveness of agency operations.

11 * **Sec. 2.** AS 44.19.145(a) is amended by adding a new paragraph to read:

12 (12) conduct internal audits of agencies and programs within the
13 executive branch of state government.

14 * **Sec. 3.** AS 44.19 is amended by adding a new section to read:

1 **Sec. 44.19.147. Internal audit records.** The office shall keep a complete file
2 of internal audit reports resulting from audits conducted under AS 44.19.145(a), and a
3 complete file of the internal audit work papers and other related supportive material.
4 Internal audit work papers and other related supportive material are confidential, and
5 internal audit reports are confidential until released by the governor. However,
6 internal audit work papers and other related supportive material containing
7 information, data, estimates, and statistics obtained during the course of an audit
8 conducted under AS 44.19.145(a) may be kept confidential only to the extent required
9 by law applicable to the agency from which the material is or was obtained.

10 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

not offered

23-GH1138V.1
Lauterbach
4/29/03

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 243(STA)

1 Page 1, line 2, following "programs;"

2 Insert "relating to expenditure of federal or other program receipts not
3 specifically appropriated by the full legislature;"

4
5 Page 1, following line 10:

6 Insert a new bill section to read:

7 "* Sec. 2. AS 37.07.080(h) is amended to read:

8 (h) Additional [THE INCREASE OF AN APPROPRIATION ITEM BASED
9 ON ADDITIONAL] federal or other program receipts not specifically appropriated by
10 the full legislature may be expended in accordance with the following procedures:

11 (1) the governor shall submit a revised program to the Legislative
12 Budget and Audit Committee for review;

13 (2) 45 days shall elapse before commencement of expenditures under
14 the revised program unless the Legislative Budget and Audit Committee earlier
15 recommends that the state take part in the federally or otherwise funded activity;

16 (3) should the Legislative Budget and Audit Committee recommend
17 within the 45-day period that the state not initiate the additional activity, the governor
18 shall again review the revised program and if the governor determines to authorize the
19 expenditure, the governor shall provide the Legislative Budget and Audit Committee
20 with a statement of the governor's reasons before commencement of expenditures
21 under the revised program."

22

23 Renumber the following bill sections accordingly.

HB 243



FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US

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JUNEAU, ALASKA 99811-0001
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 3, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would establish state agency program performance management and audit powers in the Office of the Governor. This bill would establish powers in the office of management and budget necessary to evaluate program performance by executive branch agencies. These powers would include express authorization for the exercise of internal audit powers. It is my intent that this authority permit the centralization of the internal audit function, which had been a declining effort under previous Administrations. I intend to use internal audits as a management tool in my Administration's continuing effort to streamline and make efficient the operations of state agencies.

The bill also would make certain audit records confidential. This provision mirrors the powers given to legislative auditors and is considered necessary to make the auditors effective in the performance of their duties.

I urge your favorable consideration of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

OFFICE OF MANAGEMENT AND BUDGET
STATEMENT AND SECTIONAL ANALYSIS FOR HOUSE BILL 243

The Office of Management and Budget was established in 1983. To staff OMB, existing budget components from other departments were transferred to the Office of the Governor and reorganized into four divisions. One of those transfers moved the Internal Audit function from the Department of Administration to OMB as part of the Management Division, then staffed with 19 full time positions. Management staff had declined to 12 full time positions by 1995, when the function was abolished.

The day Governor Murkowski took office, he signed Administrative Order No. 202 [attached] and directed "all principal departments of the executive branch to perform internal performance audits". OMB was directed to coordinate those departmental audits as part of the January/February budget review process. Much of the Governor's amended budget - now before the Legislature - is the product of this process.

In reestablishing the audit function, the Governor will shift focus from traditional internal auditing to:

Performance Measurement - Systematic collection and reporting of information that tracks resources used, work produced, and intended results achieved;

Performance Evaluation - Systematic collection and analysis of information to determine a program's performance and the reasons for achieving the level of performance; and both performance measurement and performance evaluation are vital parts of

Performance Budgeting, the central mission of OMB.

Borrowing from the Governor's transmittal letter for HB 243, the sectional analysis is:

- Section 1.** The bill would establish powers in the Office of Management and Budget necessary to evaluate program performance by executive branch agencies;
- Section 2.** Provide express authorization for the exercise of internal audit powers; and
- Section 3.** Would make "internal audit work papers and other related supportive material" confidential. And, as stated in the transmittal, "This provision mirrors the powers given to legislative auditors and is considered necessary to make the auditors effective in the performance of their duties."

FRANK H. MURKOWSKI
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU
ADMINISTRATIVE ORDER NO. 202

Under the authority of art. III, secs. 1 and 24, of the Alaska Constitution and AS 44.17.060, 44.17.070, AS 44.19.010, and 44.19.144 and in the interests of efficient administration, I, Frank H. Murkowski, Governor of the State of Alaska, order all principal departments of the executive branch to perform internal performance audits.

The performance audits are to be coordinated by the Office of Management and Budget, Office of the Governor (OMB) and are to be conducted according to the schedule and format determined by the OMB. The scope of these audits shall include

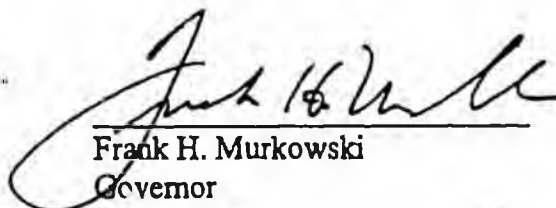
1. a review of department compliance with established objectives and goals and whether department operations and programs are being carried out as planned;
2. a review of the economy and efficiency with which a department's resources are employed;
3. an evaluation of the accuracy, timeliness, and effectiveness of department accounting systems, reporting systems, and procedures;
4. a review of the reliability and integrity of department financial and operating information;
5. a review of department compliance with existing statutes, regulations, policies, and procedures; and
6. recommendations for consolidation and reorganization of departments, divisions, and duties and any other recommendation to promote sound and efficient administration.

The OMB, together with principal departments of the executive branch, and in compliance with state personnel laws, may determine a program to reward executive branch employees for suggestions and recommendations that lead to significant improvements in the efficient administration of state government.

Working papers generated during the performance of the internal performance audits are confidential to the extent allowed by law until the related final report is released as provided under state law. Working papers containing material that is designated by law as confidential remain classified as confidential.

This Order takes effect immediately.

Dated this 2nd day of December, 2002.


Frank H. Murkowski
Governor

HB

243

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 12 2003
SENATE FINANCE
COMMITTEE

DATE: 5/8/03

FURTHER:

DATE TURNED
IN TO OFFICE: 12 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 243(STA)

HB 243 EVALUATION OF AGENCY PROGRAMS

"An Act establishing state agency program performance management and audit powers in the Office of the Governor for the evaluation of agency programs; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Coal.	4/16/03		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Taylor</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			