

SUBCHAPTER A—INCOME TAX (CONTINUED)

PART 1—INCOME TAXES

TAX ON SELF-EMPLOYMENT INCOME

Sec.

- 1.1401-1 Tax on self-employment income.
- 1.1402(a)-1 Definition of net earnings from self-employment.
- 1.1402(a)-2 Computation of net earnings from self-employment.
- 1.1402(a)-3 Special rules for computing net earnings from self-employment.
- 1.1402(a)-4 Rentals from real estate.
- 1.1402(a)-5 Dividends and interest.
- 1.1402(a)-6 Gain or loss from disposition of property.
- 1.1402(a)-7 Net operating loss deduction.
- 1.1402(a)-8 Community income.
- 1.1402(a)-9 Puerto Rico.
- 1.1402(a)-10 Personal exemption deduction.
- 1.1402(a)-11 Ministers and members of religious orders.
- 1.1402(a)-12 Possession of the United States.
- 1.1402(a)-13 Income from agricultural activity.
- 1.1402(a)-14 Options available to farmers in computing net earnings from self-employment for taxable years ending after 1954 and before December 31, 1956.
- 1.1402(a)-15 Options available to farmers in computing net earnings from self-employment for taxable years ending on or after December 31, 1956.
- 1.1402(a)-16 Exercise of option.
- 1.1402(a)-17 Retirement payments to retired partners.
- 1.1402(a)-18 Split-dollar life insurance arrangements.
- 1.1402(b)-1 Self-employment income.
- 1.1402(c)-1 Trade or business.
- 1.1402(c)-2 Public office.
- 1.1402(c)-3 Employees.
- 1.1402(c)-4 Individuals under Railroad Retirement System.
- 1.1402(c)-5 Ministers and members of religious orders.
- 1.1402(c)-6 Members of certain professions.
- 1.1402(c)-7 Members of religious groups opposed to insurance.
- 1.1402(d)-1 Employee and wages.
- 1.1402(e)-1A Application of regulations under section 1402(e).
- 1.1402(e)-2A Ministers, members of religious orders and Christian Science practitioners; application for exemption from self-employment tax.
- 1.1402(e)-3A Time limitation for filing application for exemption.
- 1.1402(e)-4A Period for which exemption is effective.
- 1.1402(e)-5A Applications for exemption from self-employment taxes filed after December 31, 1986, by ministers, certain

members of religious orders, and Christian Science practitioners.

- 1.1402(e)(1)-1 Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.
- 1.1402(e)(2)-1 Time limitation for filing waiver certificate.
- 1.1402(e)(3)-1 Effective date of waiver certificate.
- 1.1402(e)(4)-1 Treatment of certain remuneration paid in 1955 and 1956 as wages.
- 1.1402(e)(5)-1 Optional provision for certain certificates filed before April 15, 1962.
- 1.1402(e)(5)-2 Optional provisions for certain certificates filed on or before April 17, 1967.
- 1.1402(e)(6)-1 Certificates filed by fiduciaries or survivors on or before April 15, 1962.
- 1.1402(f)-1 Computation of partner's net earnings from self-employment for taxable year which ends as result of his death.
- 1.1402(g)-1 Treatment of certain remuneration erroneously reported as net earnings from self-employment.
- 1.1402(h)-1 Members of certain religious groups opposed to insurance.
- 1.1403-1 Cross references.

WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS AND TAX-FREE COVENANT BONDS

NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

- 1.1441-0 Outline of regulation provisions for section 1441.
- 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.
- 1.1441-2 Amounts subject to withholding.
- 1.1441-3 Determination of amounts to be withheld.
- 1.1441-4 Exemptions from withholding for certain effectively connected income and other amounts.
- 1.1441-5 Withholding on payments to partnerships, trusts, and estates.
- 1.1441-6 Claim of reduced withholding under an income tax treaty.
- 1.1441-7 General provisions relating to withholding agents.
- 1.1441-8 Exemption from withholding for payments to foreign governments, international organizations, foreign central banks of issue, and the Bank for International Settlements.
- 1.1441-9 Exemption from withholding on exempt income of a foreign tax-exempt organization, including foreign private foundations.

Pt. 1

- 1.1441-10 Withholding agents with respect to fact-pay arrangements.
- 1.1442-1 Withholding of tax on foreign corporations.
- 1.1442-2 Exemption under a tax treaty.
- 1.1442-3 Tax exempt income of a foreign tax-exempt corporations.
- 1.1443-1 Foreign tax-exempt organizations.
- 1.1445-1 Withholding on dispositions of U.S. real property interests by foreign persons: In general.
- 1.1445-2 Situations in which withholding is not required under section 1445(a).
- 1.1445-3 Adjustments to amount required to be withheld pursuant to withholding certificate.
- 1.1445-4 Liability of agents.
- 1.1445-5 Special rules concerning distributions and other transactions by corporations, partnerships, trusts, and estates.
- 1.1445-6 Adjustments pursuant to withholding certificate of amount required to be withheld under section 1445(e).
- 1.1445-7 Treatment of foreign corporation that has made an election under section 897(i) to be treated as a domestic corporation.
- 1.1445-8 Special rules regarding publicly traded partnerships, publicly traded trusts and real estate investment trusts (REITs).
- 1.1445-10T Special rule for Foreign governments (temporary).
- 1.1445-11T Special rules requiring withholding under § 1.1445-5 (temporary).

TAX-FREE COVENANT BONDS

- 1.1451-1 Tax-free covenant bonds issued before January 1, 1934.
- 1.1451-2 Exemptions from withholding under section 1451.

APPLICATION OF WITHHOLDING PROVISIONS

- 1.1461-1 Payment and returns of tax withheld.
- 1.1461-2 Adjustments for overwithholding or underwithholding of tax.
- 1.1462-1 Withheld tax as credit to recipient of income.
- 1.1463-1 Tax paid by recipient of income.
- 1.1464-1 Refunds or credits.

RULES APPLICABLE TO RECOVERY OF EXCESSIVE PROFITS ON GOVERNMENT CONTRACTS

RECOVERY OF EXCESSIVE PROFITS ON GOVERNMENT CONTRACTS

- 1.1471-1 Recovery of excessive profits on government contracts.

MITIGATION OF EFFECT OF RENEGOTIATION OF GOVERNMENT CONTRACTS

- 1.1481-1 [Reserved]

26 CFR Ch. I (4-1-05 Edition)

TAX ON TRANSFERS TO AVOID INCOME TAX

- 1.1491-1 Imposition of tax.
- 1.1492-1 Nontaxable transfers.
- 1.1493-1 Definition of foreign trust.
- 1.1494-1 Returns; payment and collection of tax.
- 1.1494-2 Effective date.

CONSOLIDATED RETURNS

RETURNS AND PAYMENT OF TAX

Consolidated Return Regulations

- 1.1502-0 Effective dates.
- 1.1502-1 Definitions.

CONSOLIDATED TAX LIABILITY

- 1.1502-2 Computation of tax liability.
- 1.1502-3 Consolidated tax credits.
- 1.1502-4 Consolidated foreign tax credit.
- 1.1502-5 Estimated tax.
- 1.1502-6 Liability for tax.
- 1.1502-9 Consolidated overall foreign losses and separate limitation losses.

COMPUTATION OF CONSOLIDATED TAXABLE INCOME

- 1.1502-11 Consolidated taxable income.

COMPUTATION OF SEPARATE TAXABLE INCOME

- 1.1502-12 Separate taxable income.
- 1.1502-13 Intercompany transactions.
- 1.1502-15 SRLY limitation on built-in losses.
- 1.1502-16 Mine exploration expenditures.
- 1.1502-17 Methods of accounting.
- 1.1502-18 Inventory adjustment.
- 1.1502-19 Excess loss accounts.
- 1.1502-20 Disposition or deconsolidation of subsidiary stock.
- 1.1502-20T Disposition or deconsolidation of subsidiary stock (temporary).

COMPUTATION OF CONSOLIDATED ITEMS

- 1.1502-21 Net operating losses.
- 1.1502-21T Net operating losses (temporary).
- 1.1502-22 Consolidated capital gain and loss.
- 1.1502-23 Consolidated net section 1231 gain or loss.
- 1.1502-24 Consolidated charitable contributions deduction.
- 1.1502-26 Consolidated dividends received deduction.
- 1.1502-27 Consolidated section 247 deduction.
- 1.1502-28 Consolidated section 108.

BASIS, STOCK OWNERSHIP, AND EARNINGS AND PROFITS RULES

- 1.1502-30 Stock basis after certain triangular reorganizations.
- 1.1502-31 Stock basis after a group structure change.
- 1.1502-32 Investment adjustments.
- 1.1502-32T Investment adjustments (temporary).

Internal Revenue Service, Treasury

Pt. 1

- 1.1502-33 Earnings and profits.
- 1.1502-34 Special aggregate stock ownership rules.
- 1.1502-35T Transfers of subsidiary member stock and deconsolidations of subsidiary members (temporary).

SPECIAL TAXES AND TAXPAYERS

- 1.1502-42 Mutual savings banks, etc.
- 1.1502-43 Consolidated accumulated earnings tax.
- 1.1502-44 Percentage depletion for independent producers and royalty owners.
- 1.1502-47 Consolidated returns by life-nonlife groups.
- 1.1502-55 Computation of alternative minimum tax of consolidated groups.

ADMINISTRATIVE PROVISIONS AND OTHER RULES

- 1.1502-75 Filing of consolidated returns.
- 1.1502-75T Filing of consolidated returns (temporary).
- 1.1502-76 Taxable year of members of group.
- 1.1502-77 Agent for the group.
- 1.1502-78 Tentative carryback adjustments.
- 1.1502-79 Separate return years.
- 1.1502-80 Applicability of other provisions of law.
- 1.1502-80T Applicability of other provisions of law (temporary).
- 1.1502-81T Alaska Native Corporations.
- 1.1502-90 Table of contents.
- 1.1502-91 Application of section 382 with respect to a consolidated group.
- 1.1502-92 Ownership change of a loss group or a loss subgroup.
- 1.1502-93 Consolidated section 382 limitation (or subgroup section 382 limitation).
- 1.1502-94 Coordination with section 382 and the regulations thereunder when a corporation becomes a member of a consolidated group.
- 1.1502-95 Rules on ceasing to be a member of a consolidated group (or loss subgroup).
- 1.1502-96 Miscellaneous rules.
- 1.1502-97 Special rules under section 382 for members under the jurisdiction of a court in a title 11 similar case. [Reserved]
- 1.1502-98 Coordination with section 383.
- 1.1502-99 Effective dates.
- 1.1502-100 Corporations exempt from tax.
- 1.1503-1 Computation and payment of tax.
- 1.1503-2 Dual consolidated loss.
- 1.1503-2T Dual consolidated loss (temporary).
- 1.1504-0 Outline of provisions.
- 1.1504-1 Definitions.
- 1.1504-2—1.1504-3 [Reserved]
- 1.1504-4 Treatment of warrants, options, convertible obligations, and other similar interests.

REGULATIONS APPLICABLE FOR TAX YEARS FOR WHICH A RETURN IS DUE ON OR BEFORE AUGUST 11, 1999

- 1.1502-9A Applications of overall foreign loss recapture rules to corporations filing consolidated returns due on or before August 11, 1999.

REGULATIONS APPLICABLE TO TAXABLE YEARS BEFORE JANUARY 1, 1997

- 1.1502-15A Limitations on the allowance of built-in deductions for consolidated return years beginning before January 1, 1997.
- 1.1502-21A Consolidated net operating loss deduction generally applicable for consolidated return years beginning before January 1, 1997.
- 1.1502-22A Consolidated net capital gain or loss generally applicable for consolidated return years beginning before January 1, 1997.
- 1.1502-23A Consolidated net section 1231 gain or loss generally applicable for consolidated return years beginning before January 1, 1997.
- 1.1502-41A Determination of consolidated net long-term capital gain and consolidated net short-term capital loss generally applicable for consolidated return years beginning before January 1, 1997.

REGULATIONS APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JUNE 28, 2002

- 1.1502-77A Common parent agent for subsidiaries applicable for consolidated return years beginning before June 28, 2002.

REGULATIONS APPLICABLE TO TAXABLE YEARS BEFORE JANUARY 1, 1997

- 1.1502-79A Separate return years generally applicable for consolidated return years beginning before January 1, 1997.

REGULATIONS APPLYING SECTION 382 WITH RESPECT TO TESTING DATES (AND CORPORATIONS JOINING OR LEAVING CONSOLIDATED GROUPS) BEFORE JUNE 25, 1999

- 1.1502-90A Table of contents.
- 1.1502-91A Application of section 382 with respect to a consolidated group generally applicable for testing dates before June 25, 1999.
- 1.1502-92A Ownership change of a loss group or a loss subgroup generally applicable for testing dates before June 25, 1999.
- 1.1502-93A Consolidated section 382 limitation (or subgroup section 382 limitation) generally applicable for testing dates before June 25, 1999.

Pt. 1

26 CFR Ch. I (4-1-05 Edition)

- 1.1502-94A Coordination with section 382 and the regulations thereunder when a corporation becomes a member of a consolidated group generally applicable for corporations becoming members of a group before June 25, 1999.
- 1.1502-95A Rules on ceasing to be a member of a consolidated group generally applicable for corporations ceasing to be members before June 25, 1999.
- 1.1502-96A Miscellaneous rules generally applicable for testing dates before June 25, 1999.
- 1.1502-97A Special rules under section 382 for members under the jurisdiction of a court in a title 11 similar case. [Reserved]
- 1.1502-98A Coordination with section 383 generally applicable for testing dates (or members joining or leaving a group) before June 25, 1999.
- 1.1502-99A Effective dates.
- DUAL CONSOLIDATED LOSSES INCURRED IN TAXABLE YEARS BEGINNING BEFORE OCTOBER 1, 1992**
- 1.1503-2A Dual consolidated loss.
- AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.
- Section 1.1402 (e)-5T also is issued under 26 U.S.C. 1402(e)(1) and (2).
- Section 1.1441-2 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1441-3 also issued under 26 U.S.C. 1441(c)(4), 26 U.S.C. 3401(a)(6) and 26 U.S.C. 7701(l).
- Section 1.1441-4 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1441-5 also issued under 26 U.S.C. 1441(c)(4), 26 U.S.C. 3401(a)(6) and 26 U.S.C. 7701(b)(11).
- Section 1.1441-6 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1441-7 also issued under 26 U.S.C. 1441(c)(4), 26 U.S.C. 3401(a)(6) and 26 U.S.C. 7701(l).
- Section 1.1443-1 also issued under 26 U.S.C. 1443(a).
- Section 1.1445-5 also issued under 26 U.S.C. 1445(e)(6).
- Section 1.1445-8 also issued under 26 U.S.C. 1445(e)(6).
- Section 1.1461-1 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1461-2 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1462-1 also issued under 26 U.S.C. 1441(c)(4) and 26 U.S.C. 3401(a)(6).
- Section 1.1502-0 also issued under 26 U.S.C. 1502.
- Section 1.1502-1 also issued under 26 U.S.C. 1502.
- Section 1.1502-2 also issued under 26 U.S.C. 1502.
- Section 1.1502-3 also issued under 26 U.S.C. 1502.

- Section 1.1502-4 also issued under 26 U.S.C. 1502.
- Section 1.1502-9 also issued under 26 U.S.C. 1502.
- Section 1.1502-11 also issued under 26 U.S.C. 1502.
- Section 1.1502-12 also issued under 26 U.S.C. 1502.
- Section 1.1502-13 also issued under 26 U.S.C. 1502.
- Section 1.1502-15 also issued under 26 U.S.C. 1502.
- Section 1.1502-17 also issued under 26 U.S.C. 446 and 1502.
- Section 1.1502-18 also issued under 26 U.S.C. 1502.
- Section 1.1502-19 also issued under 26 U.S.C. 301, 1502, and 1503.
- Section 1.1502-20 also issued under 26 U.S.C. 337(d) and 1502.
- Section 1.1502-20T also issued under 26 U.S.C. 337(d) and 1502.
- Section 1.1502-21 also issued under 26 U.S.C. 1502 and 6402(i).
- Section 1.1502-21T also issued under 26 U.S.C. 1502.
- Section 1.1502-21T(b)(1) and (b)(3)(v) also issued under 26 U.S.C. 1502.
- Section 1.1502-22 also issued under 26 U.S.C. 1502.
- Section 1.1502-23 also issued under 26 U.S.C. 1502.
- Section 1.1502-26 also issued under 26 U.S.C. 1502.
- Section 1.1502-28 also issued under 26 U.S.C. 1502.
- Section 1.1502-30 also issued under 26 U.S.C. 1502.
- Section 1.1502-31 also issued under 26 U.S.C. 1502.
- Section 1.1502-32 also issued under 26 U.S.C. 301, 1502, and 1503.
- Section 1.1502-32T also issued under 26 U.S.C. 1502.
- Section 1.1502-33 also issued under 26 U.S.C. 1502.
- Section 1.1502-34 also issued under 26 U.S.C. 1502.
- Section 1.1502-35T also issued under 26 U.S.C. 1502.
- Section 1.1502-55 also issued under 26 U.S.C. 1502.
- Section 1.1502-75 also issued under 26 U.S.C. 1502.
- Section 1.1502-76 also issued under 26 U.S.C. 1502.
- Section 1.1502-77 also issued under 26 U.S.C. 1502 and 6402(j).
- Section 1.1502-78 also issued under 26 U.S.C. 1502, 6402(j), and 6411(c).
- Section 1.1502-79 also issued under 26 U.S.C. 1502.
- Section 1.1502-80 also issued under 26 U.S.C. 1502.
- Section 1.1502-81T also issued under 26 U.S.C. 1502.

Internal Revenue Service, Treasury

§ 1.1401-1

- Section 1.1502-91 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-92 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-93 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-94 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-95 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-96 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-98 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-99 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1503-2 also issued under 26 U.S.C. 1502.
- Section 1.1503-2T also issued under 26 U.S.C. 1503(d).
- Section 1.1504-4 also issued under 26 U.S.C. 1504(a)(5).
- Section 1.1502-9A also issued under 26 U.S.C. 1502.
- Section 1.1502-15A also issued under 26 U.S.C. 1502.
- Section 1.1502-21A also issued under 26 U.S.C. 1502.
- Section 1.1502-22A also issued under 26 U.S.C. 1502.
- Section 1.1502-23A also issued under 26 U.S.C. 1502.
- Section 1.1502-41A also issued under 26 U.S.C. 1502.
- Section 1.1502-77A also issued under 26 U.S.C. 1502 and 6402(j).
- Section 1.1502-79A also issued under 26 U.S.C. 1502.
- Section 1.1502-91A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-92A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-93A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-94A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-95A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-96A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-98A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.
- Section 1.1502-99A also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502.

SOURCE: Sections 1.1401-1 through 1.1403-1 contained in T.D. 6691, 28 FR 12796, Dec. 3, 1963, unless otherwise noted.

TAX ON SELF-EMPLOYMENT INCOME

§ 1.1401-1 Tax on self-employment income.

(a) There is imposed, in addition to other taxes, a tax upon the self-employment income of every individual at

the rates prescribed in section 1401(a) (old-age, survivors, and disability insurance) and (b) (hospital insurance). (See subparagraphs (1) and (2) of paragraph (b) of this section.) This tax shall be levied, assessed, and collected as part of the income tax imposed by subtitle A of the Code and, except as otherwise expressly provided, will be included with the tax imposed by section 1 or 3 in computing any deficiency or overpayment and in computing the interest and additions to any deficiency, overpayment, or tax. Since the tax on self-employment income is part of the income tax, it is subject to the jurisdiction of the Tax Court of the United States to the same extent and in the same manner as the other taxes under subtitle A of the Code. Furthermore, with respect to taxable years beginning after December 31, 1966, this tax must be taken into account in computing any estimate of the taxes required to be declared under section 6015.

(b) The rates of tax on self-employment income are as follows:

(1) For old-age, survivors, and disability insurance:

<i>Taxable year</i>	<i>Percent</i>
Beginning before January 1, 1957	3
Beginning after December 31, 1956 and before January 1, 1959	3.375
Beginning after December 31, 1958 and before January 1, 1960	3.75
Beginning after December 31, 1959 and before January 1, 1962	4.5
Beginning after December 31, 1961 and before January 1, 1963	4.7
Beginning after December 31, 1962 and before January 1, 1966	5.4
Beginning after December 31, 1965 and before January 1, 1967	5.8
Beginning after December 31, 1966 and before January 1, 1968	5.9
Beginning after December 31, 1967 and before January 1, 1969	5.8
Beginning after December 31, 1968 and before January 1, 1971	6.3
Beginning after December 31, 1970 and before January 1, 1973	6.9
Beginning after December 31, 1972	7.0

(2) For hospital insurance:

<i>Taxable year</i>	<i>Percent</i>
Beginning after December 31, 1965 and before January 1, 1967	0.35
Beginning after December 31, 1966 and before January 1, 196850
Beginning after December 31, 1967 and before January 1, 197360
Beginning after December 31, 1972 and before January 1, 1974	1.0
Beginning after December 31, 1973 and before January 1, 197890

§ 1.1402(a)-1

<i>Taxable year</i>	<i>Percent</i>
Beginning after December 31, 1977 and before January 1, 1981	1.10
Beginning after December 31, 1980 and before January 1, 1986	1.35
Beginning after December 31, 1985	1.50

(c) In general, self-employment income consists of the net earnings derived by an individual (other than a nonresident alien) from a trade or business carried on by him as sole proprietor or by a partnership of which he is a member, including the net earnings of certain employees as set forth in § 1.1402(c)-3, and of crew leaders, as defined in section 3121(o) (see such section and the regulations thereunder in part 31 of this chapter (Employment Tax Regulations)). See, however, the exclusions, exceptions, and limitations set forth in §§ 1.1402(a)-1 through 1.1402(h)-1.

[T.D. 6993, 34 FR 828, Jan. 18, 1969, as amended by T.D. 7333, 39 FR 44445, Dec. 24, 1974]

§ 1.1402(a)-1 Definition of net earnings from self-employment.

(a) Subject to the special rules set forth in §§ 1.1402(a)-3 to 1.1402(a)-17, inclusive, and to the exclusions set forth in §§ 1.1402(c)-2 to 1.1402(c)-7, inclusive, the term “net earnings from self-employment” means:

(1) The gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by chapter 1 of the Code which are attributable to such trade or business, plus

(2) His distributive share (whether or not distributed), as determined under section 704, of the income (or minus the loss), described in section 702(a)(9) and as computed under section 703, from any trade or business carried on by any partnership of which he is a member.

(b) Gross income derived by an individual from a trade or business includes payments received by him from a partnership of which he is a member for services rendered to the partnership or for the use of capital by the partnership, to the extent the payments are determined without regard to the income of the partnership. However, such payments received from a partnership not engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1 do not constitute gross

income derived by an individual from a trade or business. See section 707(c) and the regulations thereunder, relating to guaranteed payments to a member of a partnership for services or the use of capital. See also section 706(a) and the regulations thereunder, relating to the taxable year of the partner in which such guaranteed payments are to be included in computing taxable income.

(c) Gross income derived by an individual from a trade or business includes gross income received (in the case of an individual reporting income on the cash receipts and disbursements method) or accrued (in the case of an individual reporting income on the accrual method) in the taxable year from a trade or business even though such income may be attributable in whole or in part to services rendered or other acts performed in a prior taxable year as to which the individual was not subject to the tax on self-employment income.

[T.D. 6691, 28 FR 12796, Dec. 3, 1963, as amended by T.D. 7333, 39 FR 44445, Dec. 24, 1974]

§ 1.1402(a)-2 Computation of net earnings from self-employment.

(a) *General rule.* In general, the gross income and deductions of an individual attributable to a trade or business (including a trade or business conducted by an employee referred to in paragraphs (b), (c), (d), or (e) of § 1.1402(c)-3), for the purpose of ascertaining his net earnings from self-employment, are to be determined by reference to the provisions of law and regulations applicable with respect to the taxes imposed by sections 1 and 3. Thus, if an individual uses the accrual method of accounting in computing taxable income from a trade or business for the purpose of the tax imposed by section 1 or 3, he must use the same method in determining net earnings from self-employment. Likewise, if a taxpayer engaged in a trade or business of selling property on the installment plan elects, under the provisions of section 453, to use the installment method in computing income for purposes of the tax under section 1 or 3, he must use the same method in determining net earnings from self-employment. Income which is excludable from gross