

EXTENSION OF PERIOD WITHIN WHICH MINISTERS MAY ELECT  
SOCIAL SECURITY COVERAGE AS SELF-EMPLOYED INDIVIDUALS  
AND INCLUSION OF CERTAIN ITEMS OF INCOME BY MINISTERS  
FOR SOCIAL SECURITY PURPOSES

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Mr. KERR, from the Committee on Finance, submitted the following

## REPORT

[To accompany H. R. 8892]

The Committee on Finance, to whom was referred the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

### GENERAL STATEMENT

H. R. 8892 would amend the Internal Revenue Code of 1954 to extend for 2 years (in general, through April 15, 1959) the time within which ministers (including certain members of religious orders and Christian Science practitioners) may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. Each minister who files a waiver certificate during the extended period would be covered under old-age, survivors, and disability insurance for each year, beginning with his first taxable year ending after 1955, in which he had net earnings from self-employment of \$400 or more (some part of which is from the exercise of his ministry—for old-age, survivors, and disability insurance purposes these are all treated as earnings from self-employment).

The bill would not change the deadline presently prescribed for the filing of waiver certificates when that deadline is later than the one provided in the bill, as in the case of a person who becomes a minister in the future or a minister who did not have (and will not have) net earnings from self-employment of \$400 or more, some portion of which was from the exercise of the ministry, in two or more of the taxable years 1955, 1956, 1957, and 1958. However, it would amend the existing provisions to make a waiver certificate filed after the extended

period provided in the bill effective with the taxable year preceding the one for which it was filed (assuming this preceding year meets the \$400 earnings requirement).

In addition the bill would provide, both for tax purposes under the Internal Revenue Code and benefit purposes under title II of the Social Security Act, for treatment as remuneration for employment, instead of as net earnings from self-employment, of remuneration paid in 1955 and 1956 to ministers and erroneously reported as wages, in good faith, by certain nonprofit organizations (to the extent of the unrefunded social security taxes paid).

Your committee has added an amendment to the bill as passed by the House, which would provide that a minister, in computing his earnings from his ministry for social security purposes (but not for income tax purposes), shall include the value of the meals and lodging furnished to him for the convenience of his employer, and the rental value of the parsonage furnished to him.

#### EXPLANATION OF PROVISIONS

##### *General*

As a result of the Social Security Amendments of 1954, coverage under the old-age, survivors, and disability insurance program on an individual election basis was made available (effective for taxable years ending after 1954) to ministers performing services in the exercise of the ministry (as well as to certain members of religious orders in the exercise of duties required by such orders, and Christian Science practitioners). Under present law, a minister may obtain coverage under this program if he indicates his desire to be covered as a self-employed person by filing a certificate on or before the due date (April 15, 1957, in most cases) of the tax return for the second taxable year after 1954 in which he has net earnings from self-employment of \$400 or more (some part of which is from services in the exercise of his ministry); unless such a certificate is filed by the due date of the return for the first of these 2 taxable years, coverage cannot be obtained for that year. He may not be covered as an employee with respect to services in the exercise of his ministry even though such services might otherwise be considered as in "employment."

Many ministers have failed to file certificates to elect coverage under the self-employment provisions within the time prescribed by law. It has become evident that a substantial number of these ministers desire coverage, and that their failure to act was caused by lack of knowledge or misunderstanding of the provisions in existing law. Such misunderstanding has been particularly widespread among ministers employed by certain church-related, nonprofit organizations (such as colleges chartered by church denominations) who were under the erroneous impression that their services in the employ of these organizations were already covered under the old-age, survivors, and disability insurance program as employment.

Your committee is much concerned that, under the provisions of present law, many of the ministers who, because of lack of knowledge or misunderstanding, have failed to file certificates electing coverage by April 15, 1957, can never gain the protection of the old-age, survivors, and disability insurance program. Your committee believes that the present deadline for filing certificates should be extended so that these ministers will have a further opportunity to elect coverage under this program as self-employed persons.

*Extension of time limit for filing of certificates and effective date of certificates filed during extended period*

H. R. 8892 would, in general, postpone for 2 years the present deadline for ministers to file certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. It would also provide mandatory retroactive coverage for ministers who file such certificates during the proposed extended period. A minister who had failed to file a certificate prior to the enactment of the bill would, by filing a certificate after such enactment and prior to the due date of the return (including any extension thereof) for his second taxable year ending after 1956, obtain coverage under the programs' self-employment provisions for each year beginning with his first taxable year ending after 1955 (assuming that all other conditions which the present law provides as requirements for such coverage are met). A minister who met the self-employment coverage requirements for his 1956 and 1957 taxable years and who, prior to enactment of the bill, filed a certificate which was effective only with respect to his 1957 taxable year, could, at his option, file a supplemental certificate during the proposed extended period to elect coverage for his 1956 taxable year.

Your committee does not believe that it is necessary that a minister who exercises his option to elect coverage during the proposed extended period be required to elect coverage for his 1955 taxable year.

In 1954, when coverage under the program was made available to ministers, coverage for 1955 was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result from late entry into coverage. As a result of the provisions enacted in 1956, however, a person who is covered in 1956 and subsequent years will, in spite of his late entry into the old-age and survivors insurance program, generally be in as good a position relative to old-age and survivors insurance protection as that which a person newly covered in 1955 enjoyed as a result of the 1954 provisions. The bill contains a provision under which no interest or penalty shall be assessed or collected on self-employment taxes payable by such a minister with respect to years for which retroactive coverage is obtained if the minister pays these taxes before the end of the sixth month after the month in which he files his certificate electing coverage.

*Rental value of parsonages and certain noncash remuneration*

Your committee has added an amendment to the House-approved bill which would provide that a minister who elects or has elected coverage under old-age and survivors insurance shall, in determining his net earnings from self-employment, include the rental value of a parsonage (or allowance for the rental value of a parsonage) and the value of meals and lodging furnished to him for the convenience of the employer. This would apply both for determining the amount of the contributions to be collected (for social security purposes only) and eligibility for and amount of benefits to be paid. Under existing law, only the cash salary, fees, and honoraria are counted in determining a minister's earnings from his ministry for social security purposes. Your committee's amendment would give recognition to the fact that noncash remuneration (value of parsonage, meals, and lodging) received by ministers may, in many instances, constitute a significant portion of their total earnings. The amendment would

provide for the treatment of such remuneration of the ministers affected (who are actually employees) similar to the treatment provided under old-age and survivors insurance for employees generally. Enactment of the provision would not affect the traditional tax-exempt status of such remuneration accorded ministers for income tax purposes.

This provision of the bill would be effective with taxable years ending on or after December 31, 1957, except that, for purposes of the retirement test under old-age and survivors insurance, the provision would be effective with taxable years beginning after the month of enactment of the provision.

*Ministers erroneously treated as employees in 1955 and 1956*

H. R. 8892 also contains provisions to take account of the fact that certain ministers have been erroneously treated as employees by non-profit organizations (generally church-related organizations), and that the remuneration reported for them by these organizations does not, under present law, constitute remuneration for employment for purposes of the old-age, survivors, and disability insurance program. Under these provisions, such remuneration paid in 1955 and 1956 and erroneously reported by the employing organization will be deemed to constitute remuneration for employment (and not net earnings from self-employment), both for purposes of the Internal Revenue Code and title II of the Social Security Act, provided the employer and employee social-security taxes have been paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such services) with respect to such remuneration. These provisions would not, however, apply to the portion of such remuneration for which a refund or credit of the taxes has been obtained prior to the date of enactment of this bill.

*Effective date of election certificates filed after the proposed extended period*

H. R. 8892 would modify the provision of present law which governs the effective date of certificates filed by ministers (principally persons who become ministers in the future) who are eligible to elect coverage under the old-age, survivors, and disability insurance program by filing certificates after the close of the proposed extended period. The effect of this modification would be to continue to give ministers the full 2 years in which to exercise the option to elect coverage, but without loss of coverage under the program for the first of these years. Under present law, as under the bill, a minister may file a certificate on or before the due date of the return for his second taxable year (after 1954) for which he has net earnings from self-employment of at least \$400, some part of which was derived from service performed in the exercise of the ministry; but under present law, if the minister files such certificate after the due date of the return for his first such taxable year, the certificate can be effective only with respect to his second taxable year. The bill would provide that such a certificate filed after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 would be effective for the taxable year immediately preceding the taxable year with respect to which it was filed and all succeeding taxable years. Of course, if in the preceding taxable year the \$400 earnings test was not met—i. e., one or more taxable years elapsed after his first taxable year meet-

ing this earnings test and the second one—this new provision would have no effect. Under this provision of the bill, interest would be assessed with respect to the delayed payment of taxes for the first taxable year and would be computed from the normal due date of the tax return for such year.

*Effective date for benefits*

Except for the provision relating to the rental value of parsonages and certain noncash remuneration, the provisions of the bill, insofar as they affect old-age, survivors, and disability insurance benefits, would be effective in the case of monthly insurance benefits for months after the month in which the bill is enacted, and, in the case of lump-sum death payments, where death occurs after the date of enactment of the bill.

However, where the records of ministers affected by the provisions of the bill (relating to election of coverage) are already serving as a basis for monthly insurance benefits under the old-age, survivors, and disability insurance program, the bill provides for recomputation of the benefits to include earnings (up to the last computation date) which these provisions of the bill make creditable under the program, but only upon the filing of an application for this purpose.

Any increase in monthly insurance benefits resulting from such a recomputation could be effective retroactively for up to 12 months before the filing of the application, but not for months which began on or prior to the date of enactment of this bill.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

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) (9) 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—

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[(8) an individual who is—

[(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

[(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States,

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).]

(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) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).*

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(e) **MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—**

(1) **WAIVER CERTIFICATE.**—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 may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act 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.

(2) **TIME FOR FILING CERTIFICATE.**—Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before *whichever of the following dates is later:* (A) the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (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; or (B) *the due date of the return (including any extension thereof) for his second taxable year ending after 1956.*

(3) **EFFECTIVE DATE OF CERTIFICATE.**—A certificate filed pursuant to this subsection shall be effective for the first taxable year with respect to which it is filed (but in no case shall the certificate be effective for a taxable year with respect to which the period for filing a return has expired, or for a taxable year ending prior to 1955) and all succeeding taxable years. An election made pursuant to this subsection shall be irrevocable. *Notwithstanding the first sentence of this paragraph:*

(A) A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.

(B) If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.

(C) A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years.

(4) **TREATMENT OF CERTAIN REMUNERATION PAID IN 1955 AND 1956 AS WAGES.**—If—

(A) in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

(B) on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service, then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.

## SOCIAL SECURITY ACT

## SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

## Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such 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) (9) of the Internal Revenue Code of 1953, 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—

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[(7) An individual who is—

[(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

[(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States,

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possession of the United States) of the Internal Revenue Code of 1954.]

*(7) 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) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code.*

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