

§ 1.1402(a)-16

26 CFR Ch. I (4-1-04 Edition)

farming business may, at his option, be deemed to be \$1,000 (66⅔ percent of \$1,500).

Example (4). A is one of the two partners of the AB partnership which is engaged in the business of farming. The taxable year of the partnership is the calendar year and its income is computed under the accrual method. A files his income tax returns on the calendar year basis. The partnership agreement provides for an equal sharing in the profits and losses of the partnership by the two partners. A is an experienced farmer and for his services as manager of the partnership's farm activities during the year 1966 he receives \$6,000 which amount constitutes a guaranteed payment within the meaning of section 707(c). The gross income of the partnership derived from such business for the year 1966, computed in accordance with paragraph (b)(2) of this section and after being reduced by the guaranteed payment made to A, is \$9,600. A's distributive share of such gross income is \$4,800 and his distributive share of income described in section 702(a)(9) derived from the partnership's business is \$1,900. Under paragraph (c) of this section, the guaranteed payment received by A and his distributive share of the partnership gross income are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the optional method of computing his net earnings from self-employment. Since the aggregate of A's guaranteed payment (\$6,000) and his distributive share of partnership gross income (\$4,800) is more than \$2,400 and since the aggregate of A's guaranteed payment (\$6,000) and his distributive share (\$1,900) of partnership income described in section 702(a)(9) is not less than \$1,600, the optional method of computing net earnings from self-employment is not available to A.

Example (5). F is a member of the EFG partnership which is engaged in the business of farming. F files his income tax returns on the calendar year basis. The taxable year of the partnership is the calendar year, and its income is computed under a cash receipts and disbursements method. Under the partnership agreement the partners are to share equally the profits or losses of the business. The gross income derived from the partnership business for the year 1966, computed in accordance with paragraph (b)(1) of this section is \$7,500. F's share of such gross income is \$2,500. Due to drought and an epidemic among the livestock, the partnership sustains a net loss of \$7,800 for the year 1966 of which loss F's share is \$2,600. Since F's distributive share of gross income derived from such business is in excess of \$2,400 and since F does not receive income described in section 702(a)(9) of \$1,600 or more from such business, he may, at his option, be deemed to have received \$1,600 as his distributive share

of income described in section 702(a)(9) from such business.

[T.D. 6691, 28 FR 12796, Dec. 3, 1963, as amended by T.D. 6993, 34 FR 828, Jan. 18, 1969]

§ 1.1402(a)-16 Exercise of option.

A taxpayer shall, for each taxable year with respect to which he is eligible to use the optional method described in § 1.1402(a)-14 or § 1.1402(a)-15, make a determination as to whether his net earnings from self-employment are to be computed in accordance with such method. If the taxpayer elects the optional method for a taxable year, he shall signify such election by computing net earnings from self-employment under the optional method as set forth in Schedule F (Form 1040) of the income tax return filed by the taxpayer for such taxable year. If the optional method is not elected at the time of the filing of the return for a taxable year with respect to which the taxpayer is eligible to elect such optional method, such method may be elected on an amended return (or on such other form as may be prescribed for such use) filed within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the optional method is elected on a return for a taxable year, the taxpayer may revoke such election by filing an amended return (or such other form as may be prescribed for such use) for the taxable year within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the taxpayer is deceased or unable to make an election, the person designated in section 6012(b) and the regulations thereunder may, within the period prescribed in this section elect the optional method for any taxable year with respect to which the taxpayer is eligible to use the optional method and revoke an election previously made by or for the taxpayer.

§ 1.1402(a)-17 Retirement payments to retired partners.

(a) *In general.* There shall be excluded, in computing net earnings from self-employment for taxable years ending on or after December 31, 1967, certain payments made on a periodic basis