

the individual who executes the certificate. If such individual has no legal residence or principal place of business in any internal revenue district, the certificate shall be filed with the Director of International Operations, Internal Revenue Service, Washington, DC 20225, or at such other address as is designated in the instructions relating to the certificate. The certificate must be filed within the time prescribed in § 1.1402(e)(2)-1. If an individual to whom paragraph (a) of this section has application submits to a district director of internal revenue a dated and signed statement indicating that he desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services, such statement will be treated as a waiver certificate, if filed within the time specified in § 1.1402(e)(2)-1, provided that without unnecessary delay such statement is supplemented by a properly executed Form 2031. An application for a social security account number filed on Form SS-5 or the filing of an income tax return showing an amount representing self-employment income or self-employment tax shall not be construed to constitute an election referred to in § 1.1402(e)(1)-1.

**§ 1.1402(e)(2)-1 Time limitation for filing waiver certificate.**

(a) *General rule.* (1) Any individual referred to in § 1.1402(e)(1)-1 who desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services must file the waiver certificate (Form 2031) prescribed by § 1.1402(e)(1)-1 on or before whichever of the following dates is later:

(i) The due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for his second taxable year ending after 1963; or

(ii) The due date of the income tax return, including any extension thereof, for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed as prescribed in paragraph (c) of this section) of \$400 or more, any part of which:

(a) In the case of a duly ordained, commissioned, or licensed minister of a church, consists of remuneration for service performed in the exercise of his ministry,

(b) In the case of a member of a religious order who has not taken a vow of poverty as a member of such order, consists of remuneration for service performed in the exercise of duties required by such order, or

(c) In the case of a Christian Science practitioner, consists of remuneration for service performed in the exercise of his profession as a Christian Science practitioner.

(2) If a minister, a member of a religious order, or a Christian Science practitioner derives gross income in a taxable year both from service performed in such capacity and from the conduct of another trade or business, and the deductions allowed by chapter 1 of the Internal Revenue Code which are attributable to the gross income derived from service performed in such capacity equal or exceed the gross income derived from service performed in such capacity, no part of the net earnings from self-employment (computed as prescribed in paragraph (c) of this section) for the taxable year shall be considered as derived from service performed in such capacity.

(3) The application of the rules set forth in subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

*Example (1).* M was ordained as a minister in May 1963. During each of the taxable years 1963 and 1966, M, who makes his income tax returns on a calendar year basis, derives net earnings in excess of \$400 from his activities as a minister. M has net earnings of \$350 for each of the taxable years 1964 and 1965, \$200 of which is derived from service performed by him as a minister. If M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his service as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1966, or any extension thereof.

*Example (2).* M, who was ordained a minister in January 1965, is employed as a toolmaker by the XYZ Corporation for the taxable years 1965 and 1966 and also engages in activities as a minister on weekends. M makes his income tax return on the basis of a calendar year. During each of the taxable years 1965 and 1966, M receives wages of \$4,800

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from the XYZ Corporation and derives \$400 (all of which constitutes net earnings from self-employment computed as prescribed in paragraph (c) of this section) from his activities as a minister. In such case if M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1966, or any extension thereof. A waiver certificate filed after such date will be invalid. It should be noted that although by reason of section 1402(b)(1)(C) no part of the \$400 for the taxable year 1965 represents "self-employment income", nevertheless the entire \$400 constitutes "net earnings from self-employment" for purposes of fulfilling the requirements of section 1402(e)(2).

*Example (3).* M, who files his income tax returns on a calendar year basis, was ordained as a minister in June 1964. During 1964 he receives \$410 for services performed in the exercise of his ministry. In addition to his ministerial services, M is engaged during the year 1964 in a mercantile venture from which he derives net earnings from self-employment in the amount of \$1,000. The expenses incurred by him in connection with his ministerial services during 1964 and which are allowable deductions under Chapter 1 of the Internal Revenue Code amount to \$410. During 1965 and 1966, M has net earnings from self-employment in amounts of \$1,200 and \$1,500, respectively, and some part of each of these amounts is from the exercise of his ministry. The deductions allowed in each of the years 1965 and 1966 by Chapter 1 which are attributable to the gross income derived by M from the exercise of his ministry in each of such years, respectively, do not equal or exceed such gross income in such year. If M wishes to have the Federal old-age, survivors, and disability insurance system established by Title II of the Social Security Act extended to his service as a minister, he must file a waiver certificate on or before the due date of his income tax return (including any extension thereof) for 1966.

*Example (4).* M, a licensed minister who makes his income tax returns on the basis of a calendar year, derived net earnings of \$400 or more from the exercise of his ministry for two or more of the taxable years 1955 to 1965, inclusive. In such case, if M wishes to have the Federal old-age, survivors, and disability insurance system established by Title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or before the due date (April 15, 1966) prescribed for filing his income tax return for 1965, or any extension thereof. A waiver certificate filed after such date will be invalid.

(b) *Effect of death.* Except as provided in §§1.1402(e)(5)-1, 1.1402(e)(5)-2, and 1.1402(e)(6)-1, the right of an individual to file a waiver certificate shall cease from his death. Thus, except as provided in such sections, the surviving spouse, administrator, or executor of a decedent shall not be permitted to file a waiver certificate for such decedent.

(c) *Computation of net earnings without regard to election.* For the purpose of this section net earnings from self-employment shall be determined without regard to the fact that, without an election under section 1402(e), the performance of services 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, or the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, does not constitute a trade or business for purposes of the tax on self-employment income.

[T.D. 6691, 28 FR 12796, Dec. 3, 1963, as amended by T.D. 6978, 33 FR 15938, Oct. 30, 1968]

**§ 1.1402(e)(3)-1 Effective date of waiver certificate.**

(a) *Filed before August 31, 1957*—(1) *In general.* A certificate on Form 2031 filed by an individual before August 31, 1957, in accordance with the provisions of section 1402(e) in effect at the time the certificate is filed, shall be effective for the first taxable year with respect to which it is filed, and all subsequent taxable years. In order for a certificate filed by an individual before August 31, 1957, to be effective under section 1402(e), the certificate must be made effective for either the first or second taxable year ending after 1954 in which the individual has net earnings from self-employment of \$400 or more (determined as provided in paragraph (c) of § 1.1402(e)(2)-1) some part of which is derived from service of the character with respect to which an election may be made. However, a certificate on Form 2031, filed before August 31, 1957, even though filed within the time specified in paragraph (a)(1)(ii) of § 1.1402(e)(2)-1, may not be effective, except as provided in subparagraph (2) of this paragraph, for any taxable year with respect to which the due date for