

after 1967, a Christian Science practitioner is, with respect to the performance of service in the exercise of his profession as a Christian Science practitioner, engaged in carrying on a trade or business unless an exemption under section 1402(e) (see §§1.1402(e)-1A through 1.1402(e)-4A) is effective with respect to him for the taxable year during which the service is performed. An exemption which is effective with respect to a Christian Science practitioner has no application to service performed by him which is not in the exercise of his profession as a Christian Science practitioner.

(c) *Meaning of terms.* The designations in this section are to be given their commonly accepted meanings. For taxable years ending after 1955, an individual who is a doctor of osteopathy, and who is not a doctor of medicine within the commonly accepted meaning of that term, is deemed, for purposes of this section, not to be engaged in carrying on a trade or business in the exercise of the profession of doctor of medicine.

(d) *Legal requirements.* The exclusions specified in paragraph (a) of this section apply only if the individuals meet the legal requirements, if any, for practicing their professions in the place where they perform the service.

(e) *Partnerships.* In the case of a partnership engaged in the practice of any of the designated excluded professions, the partnership shall not be considered as carrying on a trade or business for the purpose of the tax on self-employment income, and none of the distributive shares of the income or loss, described in section 702(a)(9), of such partnership shall be included in computing net earnings from self-employment of any member of the partnership. On the other hand, where a partnership is engaged in a trade or business not within any of the designated excluded professions, each partner must include his distributive share of the income or loss, described in section 702(a)(9), of such partnership in computing his net earnings from self-employment, irrespective of whether such partner is engaged in the practice of one or more of such professions and

contributes his professional services to the partnership.

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

**§ 1.1402(c)-7 Members of religious groups opposed to insurance.**

The performance of service by an individual:

(a) Who is a member of a recognized religious sect or division thereof, and

(b) Who 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),

during any taxable year for which he is granted a tax exemption, pursuant to section 1402(h), does not constitute a trade or business within the meaning of section 1402(c) and §1.1402(c)-1. See also §§ 1.1402(h) and 1.1402(h)-1.

[T.D. 6993, 34 FR 830, Jan. 18, 1969]

**§ 1.1402(d)-1 Employee and wages.**

For the purpose of the tax on self-employment income, the term “employee” and the term “wages” shall have the same meaning as when used in the Federal Insurance Contributions Act. For an explanation of these terms, see Subpart B of Part 31 of this chapter (Employment Tax Regulations).

**§ 1.1402(e)-1A Application of regulations under section 1402(e).**

The regulations in §§1.1402(e)-2A through 1.1402(e)-4A relate to section 1402(e) as amended by section 115(b)(2) of the Social Security Amendments of 1967 (81 Stat. 839) and apply to taxable years ending after 1967. Section 1.1402(e)-5A reflects changes made by section 1704(a) of the Tax Reform Act of 1986 (100 Stat. 2085, 2779) and applies to applications for exemption under section 1402(e) filed after December 31, 1986. For regulations under section 1402(e) (as in effect prior to amendment by the Social Security Amendments of 1967) applicable to taxable years ending

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before 1968, see §§1.1402(e)(1)-1 through 1.1402(e)(6)-1.

[T.D. 8221, 53 FR 33461, Aug. 31, 1988]

**§ 1.1402(e)-2A Ministers, members of religious orders and Christian Science practitioners; application for exemption from self-employment tax.**

(a) *In general.* (1) Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, any individual who is (i) 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 (ii) a Christian Science practitioner may request an exemption from the tax on self-employment income (see section 1401 and §1.1401-1) with respect to services performed by him in his capacity as a minister or member, or as a Christian Science practitioner, as the case may be. Such a request shall be made by filing an application for exemption on Form 4361 in the manner provided in paragraph (b) of this section and within the time specified in §1.1402(e)-3A. For provisions relating to the taxable year or years for which an exemption from the tax on self-employment income with respect to service performed by a minister or member or a Christian Science practitioner in his capacity as such is effective, see §1.1402(e)-4A. For additional provisions applicable to services performed by individuals referred to in this subparagraph, see paragraph (e) of §1.1402(c)-3 and §1.1402(c)-5 relating to ministers and members of religious orders, and paragraphs (a)(3)(ii) and (b) of §1.1402(c)-6 relating to Christian Science practitioners.

(2) The application for exemption shall contain, or there shall be filed with such application, a statement to the effect that the individual making application for exemption is conscientiously opposed to, or because of religious principles is opposed to, the acceptance (with respect to services performed by him in his capacity as a minister, member, or Christian Science 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). Thus, ministers, members of religious orders, and Christian Science practitioners requesting exemption from social security coverage must meet either of two alternative tests: (1) A religious principles test which refers to the institutional principles and discipline of the particular religious denomination to which he belongs, or (2) a conscientious opposition test which refers to the opposition because of religious considerations of individual ministers, members of religious orders, and Christian Science practitioners (rather than opposition based upon the general conscience of any such individual or individuals). The term “public insurance”, as used in section 1402(e) and this paragraph, refers to governmental, as distinguished from private, insurance and does not include insurance carried with a commercial insurance carrier. To be eligible to file an application for exemption on Form 4361, a minister, member, or Christian Science practitioners need not be opposed to the acceptance of all public insurance making payments of this specified type; he must, however, be opposed on religious grounds to the acceptance of any such payment which, in whole or in part, is based on, or measured by earnings from, services performed by in his capacity as a minister or member (see §1.1402(c)-5) or in his capacity as a Christian Science practitioner (see paragraph (b)(2) of §1.1402(c)-6). For example, a minister performing service in the exercise of his ministry may be eligible to file an application for exemption on Form 4361 even though he is not opposed to the acceptance of benefits under the Social Security Act with respect to service performed by him which is not in the exercise of his ministry.

(3) An exemption from the tax imposed on self-employment income with respect to service performed by a minister, member, or Christian Science practitioner in his capacity as such may not be granted to a minister, member, or practitioner who (in accordance with the provisions of section