

DOCUMENT RESUME

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[Need to Amend the Social Security Act to Make the Crediting of Self-Employment Income Conditional upon Payment of the Self-Employment Income Tax]. GGD-77-78; B-137762. August 8, 1977. 3 pp. + enclosure (20 pp.).

Report to Rep. Al Ullman, Chairman, Joint Committee on Taxation; by Elmer B. Staats, Comptroller General.

Issue Area: Tax Administration (2700).

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Congressional Relevance: Joint Committee on Taxation.

Authority: Social Security Act, as amended. Federal Insurance Contributions Act. Self-employment Contributions Act.

In 1973, GAO recommended that the Joint Committee on Taxation initiate legislation amending the Social Security Act to insure self-employed persons' contributions to Social Security and Federal Insurance Contribution Taxes (FICA). The recommendation was never acted upon, but the need for the legislation still exists. Findings/Conclusions: Evasion of the self-employment income tax may have an effect on the extent to which the Social Security Program is financed from general revenues. The 1950 amendments to the Social Security Act changed the method of crediting tax contributions so that trust funds can be reimbursed from general revenues when the FICA and self-employment taxes are not collected and paid into the Treasury. An employee's FICA contributions are considered a "trust fund" tax, taken from his salary; however, this is not the case for self-employed persons. Legislation should be passed to rectify the situation. (Author/SS)

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

03106

AUG 8 1977

B-137762

The Honorable Al Ullman
Chairman, Joint Committee
on Taxation
Congress of the United States

Dear Mr. Chairman:

In an August 9, 1973, report to the Joint Committee entitled, "Collection of Taxpayers' Delinquent Accounts by the Internal Revenue Service," we recommended that the Joint Committee initiate legislation amending the Social Security Act to make the payment of benefits based upon reported self-employment income conditional upon payment of the self-employment tax due with respect to such income. The Congress has not acted on our recommendation. We believe the need to enact the legislation still exists.

Accordingly, we have prepared a detailed analysis, copy enclosed, that (1) discusses the extent to which evasion of the self-employment income tax may have an effect on the extent to which the Social Security Program must be financed from general revenues, (2) summarizes the tax rules presently applicable to enforcement and collection of the self-employment income tax and the payroll tax, (3) describes the legal effect of the proposed amendments, and (4) presents a draft of the proposed amendments.

We bring this matter to your attention again for several reasons:

- Payment of benefits with respect to non-tax paid, credited self-employment earnings undermines the compulsory contributions principle which is an essential element of the Social Security Program.
- It is unfair to employees subject to withholding of their FICA tax at source and to the taxpaying public to make the OASDI program, in effect, a welfare program financed out of general revenues for a relatively small group of tax evaders.

The legislative history of the 1950 amendments to the Social Security Act shows that it was the intent of Congress, when extending benefits to the self-employed, that the program be self-supporting out of self-employment and FICA tax contributions. The 1950 amendments changed the method of crediting tax contributions to the trust fund from a "tax receipt" to a "tax imposed on reported earnings" basis in order to facilitate assessment and collection of the payroll and self-employment taxes together with the income tax. An unintended result of this change is to reimburse the trust funds out of general revenues to the extent that the FICA and self-employment taxes are not collected and paid into the Treasury.

Congress, by making the employee's FICA contributions a "trust fund" tax, has taken reasonable legal steps to insure collection of this tax. But, this is not the case for self-employed persons. Our 1973 recommendation was designed to extend the same degree of compulsion to the self-employed person that now applies to the employee. The enclosure to this letter explains in detail why we believe this position is still valid.

On April 20, 1977, we provided the Secretary of the Department of Health, Education, and Welfare a draft of this report and requested his comments on the need for legislation. As of July 11, 1977, the Department had not responded. Apparently, there is disagreement among Department officials as to whether they should support our legislative recommendation. We do not believe we should further delay issuing our report. Thus, we suggest that the appropriate Congressional committees require the Department to advise them of its position on our proposal. We would then be pleased to analyze the Department's response to the Committees if they believe our assistance would be useful.

We are providing copies of this report to the Vice Chairman of the Joint Committee as well as to the Social Security Subcommittee of the House Ways and Means Committee

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and the Social Security Subcommittee of the Senate Finance Committee. We would be pleased to discuss this matter further with you or your staff if you believe it would be appropriate.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Atchafalua". The signature is written in a cursive style with a large initial "J".

Comptroller General
of the United States

Enclosure

UNITED STATES GENERAL ACCOUNTING OFFICENEED TO AMEND THE SOCIAL SECURITY ACT TO MAKE THE
CREDITING OF SELF-EMPLOYMENT INCOME CONDITIONAL
UPON PAYMENT OF THE SELF-EMPLOYMENT INCOME TAXINTRODUCTION

Under the Social Security Act the reported earnings of a self-employed person are creditable for purposes of determining entitlement to benefits, whether or not the self-employment tax has been paid on such earnings. In a 1973 report to the Joint Committee on Taxation we recommended legislation amending the Social Security Act to make the payment of benefits based upon reported self-employment income conditional upon payment of the self-employment tax due with respect to such income. 1/

To date, no action has been taken on our recommendation. We believe the amendment is still needed and therefore developed more specific information on the issue. Section 1 discusses the implication that evasion of the self-employment income tax has an affect on the extent to which the social security program must be financed from general revenues-- Section 2 summarizes the tax rules presently applicable to enforcement and collection of the self-employment income tax and the payroll tax,--Section 3 describes the legal effect of the proposed amendments,--Section 4 presents a draft of the proposed amendments.

1/"Collection of Taxpayers' Delinquent Accounts by the
Internal Revenue Service," August 9, 1973, B-137762, pp. 30-32.

COST OF PAYING OASDI BENEFITS WHEN THE
SELF-EMPLOYMENT INCOME TAX IS NOT PAID

The Federal Insurance Contributions Act (FICA) tax and the Self-employment Contributions Act (SECA) tax are not earmarked taxes. The proceeds are paid without restriction into the Treasury as internal revenue collections available for the general support of the Government. The tax contributions appropriated to the Old Age, Survivors, and Disability Income (OASDI) trust funds are based upon the statutory rate of tax imposed on wages and salaries and self-employment income. Tax contributions arising from state agreements with respect to covered state and local government employment are deposited directly into the trust funds. Reported amounts of taxable earnings are sent to the Treasury Department by the Secretary of Health, Education and Welfare (HEW) on the basis of quarterly wage reports submitted by employers and income tax records of covered self-employment income. The tax contributions are credited to the OASDI trust funds under a permanent appropriation.

To the extent that the payroll or self-employment tax has not been paid with respect to covered earnings, the tax contribution amount credited in fact consists of reimbursements to the trust funds out of general revenues. Benefits and administration costs are charged to the trust funds. The excess of receipts over disbursements (i.e., the reserve accumulation) is invested in interest-bearing government securities.

The net addition to total assets by the trust fund at the end of a fiscal year consists of the excess of receipts (principally net tax contributions and net interest on investments) over disbursements (principally benefit payments and administrative expenses). There has been a net addition to the combined OASDI trust fund assets in each year since fiscal year 1972 solely because net interest and certain reimbursements from general revenues have exceeded the excess of total OASDI disbursements (benefit payments plus administrative expenses) over OASDI tax contributions.

Fiscal year	Disbursements		Tax Contributions		Net interest and reimbursements from general revenues	
	OASI	DI	OASI	DI	OASI	DI
----- (Millions of dollars) -----						
1972	\$35,849	\$4,309	\$35,711	\$4,853	\$2,206	\$438
1973	43,623	5,467	41,318	5,461	2,323	486
1974	49,485	6,385	48,455	6,234	2,481	534
1975	56,676	7,982	56,017	7,356	2,740	564

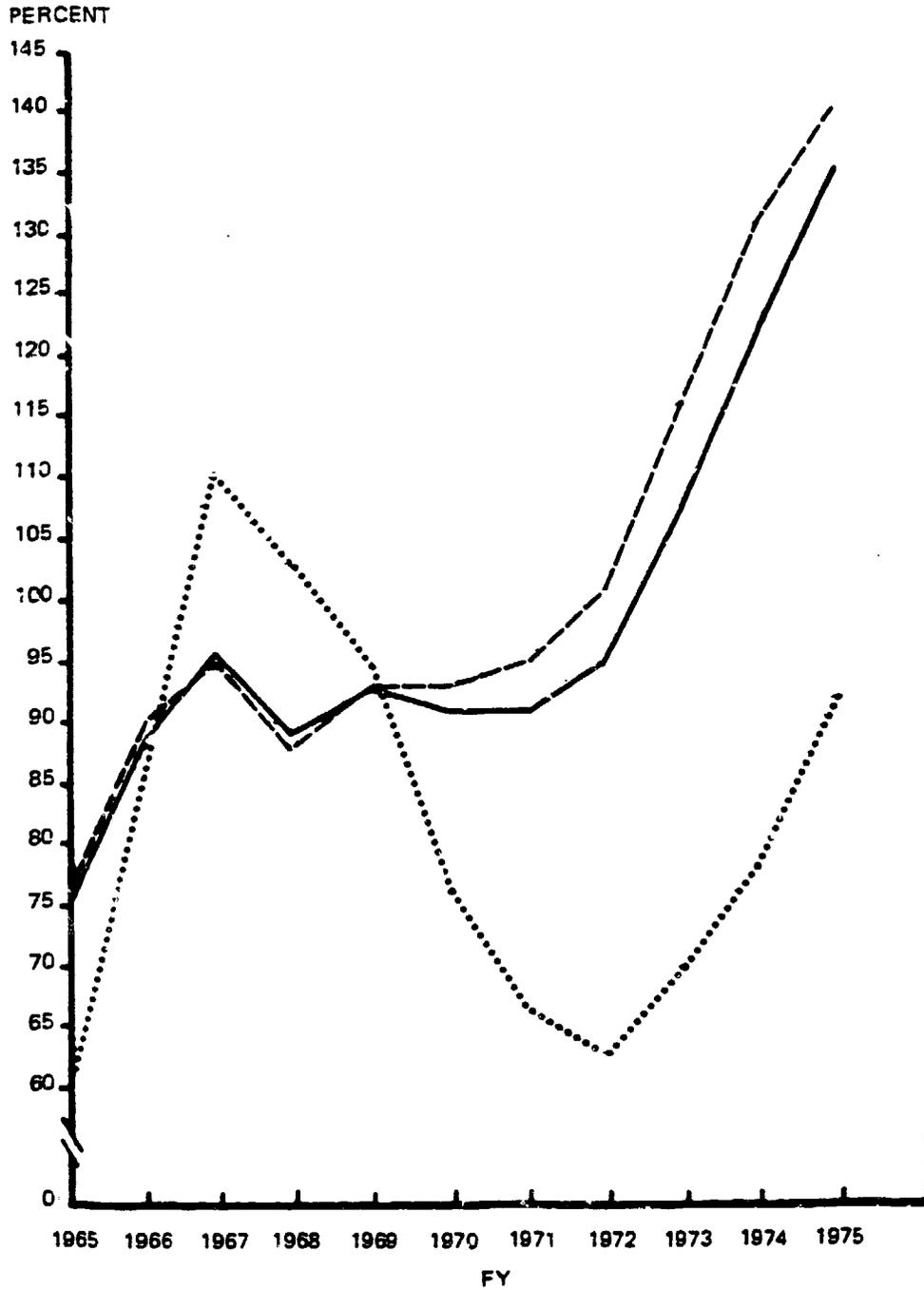
Since 1972 there has been a significant increase in OASDI benefit payments paid during each year as a percentage of OASDI trust assets at the beginning of the year.

Fiscal year	Percentage rate of increase		
	OASI	DI	OASDI
1972	7	--	5
1973	15	8	14
1974	13	11	13
1975	11	18	11

Source: U.S. Board of Trustees, Federal OASDI Trust Funds, 1973-1975, Annual Reports

Since 1973 OASDI benefit payments from the combined funds have exceeded 100 percent of the dollar value of beginning of the year assets in the funds. The trustees of the trust funds estimate that, without an increase in tax rates or a decrease in benefit payments, both funds may be exhausted sometime during the period 1979-1984. 2/ OASDI benefit payments made during the year as a percentage of trust assets at the beginning of the year for each year during the 10-year period 1965-1975 may be illustrated by the following graph.

2/U.S. Board of Trustees, Federal OASDI Trust Funds, 1975 and 1976 Annual Reports



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Source: U.S. Board of Trustees, Federal OASDI Trust Funds, 1966-1976, Annual Reports

The full cost of paying OASDI benefits based upon non-tax paid self-employment earnings consists of the sum of the tax revenue loss and of benefits paid based upon non-tax paid credited earnings (plus allocable administration expenses).

To estimate the revenue loss attributable to non-payment of self-employment taxes on self-employment income reported on the schedule SE it is necessary to sample tax return data. This is a costly process because it requires IRS to make a special run of its individual master file.

To estimate the dollar value of distributions from the OASDI trust funds attributable to the payment of benefits based upon credited, non-tax paid self-employment income it is necessary to match the tax return data obtained from IRS against the master beneficiary record maintained by SSA. This matching operation would have to be done for each delinquent taxpayer in the IRS sample over all of the years of reported credited earnings. Such a study would be complicated and time-consuming and might take as long as a year to complete.

In our view, such a study is not needed to support amendment of the Act as proposed. Under the present system of double-indexing of benefits--which indexes social security benefits and the payroll-tax wage base to the increase in the

cost of living--the dollar value of tax evasion arising out of the failure of the law to make payment of benefits conditional upon payment of the self-employment tax contribution is increased. This limited departure from the compulsory contribution principle results in an increased use of additional general revenue funds to finance the OASDI program.

ENFORCEMENT AND COLLECTION
OF EMPLOYMENT TAXES

The social security program is a form of social insurance enacted pursuant to Congress' power to "spend money in aid of the 'general welfare'." 3/ The purpose of the program is to distribute the risk of loss of earnings due to retirement, disability or death through the compulsory collection of contributions from (i.e., taxation of) all covered workers. 4/ However, eligibility for benefits and the amount of benefits are determined, not by the amount of tax paid, but by the earnings record of the primary beneficiary.

Coverage by OASDI is, in general, compulsory for earned income recipients. Contribution out of wages and self-employment income up to the statutory annual maximum

3/ Helvering v. Davis, 301 U.S. 619, 640 (1937).

4/ Schmiedigen v. Celebreeze 245 F. Supp 825, 827 (D.C. D. Col., 1965); Collins v. Celebreeze 250 F. Supp. 37, 43 (D.C. S.D. N.Y. 1966).

limit is, without exception, compulsory for all persons in the covered work force. Contribution by employers and employees with respect to wage and salary income is imposed as a payroll tax under the Federal Insurance Contributions Act. Section 3101 imposes the employee's FICA tax as an income tax measured by wages. 5/ Section 3102 imposes upon the employer the duty to collect the employee's FICA tax by withholding at source. Section 3111 imposes the employer's FICA tax as an excise tax on "the privilege of establishing and maintaining the relationship of employer and employee." 6/ Contribution by self-employed persons is imposed as one of the income taxes under Subtitle A of the Internal Revenue Code of 1954 by the Self-Employment Contributions Act. The tax is an "additional income tax" imposed on the income derived by the self-employed person "as an employee." 7/ Tax liability attaches to self-employment earnings received, even though the taxpayer has paid self-employment tax in excess of 40 consecutive quarters and hence is fully insured under the Act. 8/

5/Helvering v. Davis, supra at, 635.

6/Jones v. Goodson, 121 F. 2d. 176, 179 (10th Cir., 1941).

7/Cain v. United States, 211 F. 2d 375, 377 (5th Cir., 1954); cert. denied 347 U.S. 1013 (1954).

8/Solomon Steiner, 55 T.C. 1018 (1971); aff'd per curiam 72-1 USTC §9327 (D. Col., 1972), cert. denied 409 U.S. 850 (1972).

Assessment and collection of the employers' FICA tax and the self-employment income (SECA) tax are governed by different rules than apply to collection of the employees' withheld FICA tax. Both the employer's FICA tax payment and the employee's withheld FICA tax contribution are a personal liability of the employer and can be assessed and collected directly from the employer in the same manner as the income tax pursuant to the provisions of Chapters 63 and 64 of the Internal Revenue Code. This total FICA tax liability, representing both the employer's and the employee's share, legally due and owing more than 3 years preceding bankruptcy of the employer, is dischargeable. ^{9/} Likewise, the SECA tax is a personal liability of the recipient of taxable self-employment income, collectable as an income tax pursuant to the provisions of Chapters 63 and 64 of the Internal Revenue Code and dischargeable in bankruptcy.

However, unpaid FICA tax may be collected as a 100 percent penalty imposed upon a responsible officer or partner of the delinquent employer. The unpaid tax constitutes a special fund in trust for the United States. This means that (1) discharge or compromise of FICA tax liability in bankruptcy of the employer does not affect

^{9/}S. Rep. No. 1156, 89th Cong., 2d Sess (1966).

the liability of the responsible officer or partner with respect to the 100 percent penalty tax 10/ and (2) the 100 percent penalty tax is not dischargeable in bankruptcy of the responsible officer or partner. 11/

Section 6672 does not apply to the direct FICA tax contribution imposed on the employer. 12/ Section 6672 is used as a collection device by the government, not as a means of imposing an additional penalty on the employer, over and above the amount of the unpaid tax. 13/ The effect of these statutory provisions is to give the government the option of proceeding against either the responsible officers and employees of a corporate (or partnership) employer or against the trustee in bankruptcy of the bankrupt employer. 14/

10/Spivak v. United States, 370 F. 2d 612 (2d Cir., 1967) cert. denied 387 U.S. 908 (1967).

11/Matter of J.F. Murphy, 381 F. Supp. 813 (D.C.N.D. Ala., 1974); aff'd 533 F. 2d 941 (5th Cir., 1976). See also Westenberg v. United States, 285 F. Supp. 915 (D.C. Ariz., 1968); decided under 11 U.S.C. §35 prior to amendment in 1966.

12/S. Rep. No 1622, 83 Cong., 2d Sess. 596 (1954).

13/Datlof v. United States, 252 F. Supp. 11, 32 (DCED Pa., 1965), aff'd 370 F 2d 655 (3rd Cir., 1966); cert. denied 387 U.S. 906(1967).

14/In re Gregory Mobile Homes, Inc. 347 F. Supp. 528 (D.C. Ga., 1972).

LEGAL EFFECT OF PROPOSED AMENDMENTS

The 1950 amendment to the Social Security Act extended old-age and survivors insurance to non-professional, self-employed workers in a trade or business. Subsequent amendments have extended coverage to self-employed professional workers and farm operators. For both the self-employed person and covered employees it is the receipt of earned income under the legal maximum which alone determines both eligibility and benefit amounts. Under sections 211(a), (b), and 213(a)(2) of the Social Security Act, the total amount of self-employment income received, if the amount received exceeds \$400 per year, is credited to the worker's account by the Social Security Administration whether or not the income tax or the self-employment tax has been paid on any amount of such earnings. 15/ Similarly, an employee is entitled to OASDI benefits on the basis of wages received whether or not reported by his employer to the Social Security Administration. 16/ An employee is regarded as having paid the FICA tax withheld from his wages notwithstanding that the tax withheld is not remitted to the United States by the employer and cannot be recovered either from the employer or from a third party. 17/

15/Hernandez v. Secretary of HEW, 307 F. Supp. 338 (D.C. P.P., 1969); citing Bender v. Celebreeze, 322 F. 2d 113 (7th Cir., 1964); followed in Garner v. Richardson, 339 F. Supp. 1126, 1134 (D.C. N.D. Miss., 1971).

16/Kephart v. Richardson, 505 F. 2d 1085 (3d Cir., 1974).

17/Newsome v. United States, 431 F. 2d 742 (5th Cir., 1970).

Our proposed amendments to the Social Security Act change the OASDI coverage rules applicable to self-employed persons by making the payment of benefits based upon self-employment earnings reported on Schedule SE of the Form 1040 conditional upon payment of the self-employment tax imposed on such earnings. That is, non-tax paid earnings are to be disregarded for purposes of determining eligibility for social security benefits and cannot be used as the basis for determining the self-employed person's primary insurance amount.

This change in the law can be accomplished by amendment of section 211(b) of the Social Security Act to add a new paragraph to subsection (b) redefining self-employment income to mean only that income, not in excess of the statutory limit, with respect to which the self-employment tax has been paid. Since the definition relating to "net earnings from self-employment" and "self-employment income" of section 211(b) applies to all of Subchapter II of Chapter 7 of Title 42, the amended definition of self-employment is effective to change all of the reporting, crediting, coverage, and certification for payments procedures applicable to self-employment income under the Act. However, in the interest of clarity we have made conforming amendments to the affected procedural sections 205(c), 212 and 213(a)(2)(vi) of the Act. The proposed amendments are set out in the following section.

The proposed amendments do not impose an additional or special tax on self-employed persons or discriminate against them vis-a-vis employees. They merely reinforce the principle of compulsory contribution to the OASDI program's funding which is fundamental to the system. 18/

With minor exceptions the OASDI program has been financed by payroll taxation since 1935 and by both payroll and self-employment income taxation since 1950. The 1935 Act created an OASDI reserve account to which Congress annually appropriated funds in amounts "determined on a reserve basis in accordance with accepted actuarial principles." In practice the appropriations approximated actual tax receipts less administrative costs financed out of general revenues. The 1939 amendments provided that the appropriations to the reserve account should equal tax collections. In 1943 the law was changed to authorize appropriations to the reserve account from general revenues. No appropriations were ever made under this provision and it was repealed by the 1950 amendments. It was the intent of Congress in repealing the 1943 amendments that the OASDI program "be on a completely self-supporting basis." 19/

18/See reports of the Quadrennial Advisory Council on Social Security, H. Doc. No. 94-75, 94th Cong. 1st Session, p. 8 (1975).

19/S. Rept. No. 1669, 81st Cong. 2d Sess. (1950) in 1950 U.S.C. Cong. Service p. 2387 at 3322-23.

The 1950 amendments extended coverage to non-professional self-employed persons engaged in non-agricultural trade or business. In costing out the system and fixing both the FICA tax rates and the self-employment income tax rates the assumption was made that there would be no contribution to the system out of general revenues. 20/ The 1950 amendments provided for appropriations to the OASDI trust fund in the amount of the employment tax imposed on wages and self-employment income--as distinguished from appropriations in the amount of employment taxes collected--in order to facilitate the combined withholding of employee income and FICA taxes and to permit a single assessment of the employment taxes (FICA and self-employment income tax) with the income tax. 21/

The Congress never contemplated that the OASDI system would be financed out of general revenues to the extent that the FICA and self-employment taxes were not paid and proved uncollectable. 22/ However, that is the result of

20/Id. at pp. 3331-33.

21/Id. at p. 3343

22/Minor exceptions are made to the compulsory contributions principle under current law to take account of special circumstances. Beginning in July 1966, general revenue has been used to cover hospital insurance benefits for those age 65 and older who are not entitled to OASDI benefits and to match the premiums paid by those who elect the voluntary Medicare benefits. General revenue may also be used to pay benefits to those who attained age 72 before 1968 without having participated in the system and to those with very limited coverage who reached age 72 during the period 1968-1971.

having amended the law to base the tax contribution to the funds on taxes imposed, not on tax receipts. In the case of the self-employment income tax, not a trust fund tax, the change in the 1950 amendment is crucial and strikes at the heart of the compulsory contribution principle.

As a practical matter the proposed amendment means that the reported earnings of a self-employed person will not be credited for OASDI benefit computation purposes until the tax is paid. Such earnings will never be credited if the tax liability is discharged in bankruptcy or the delinquent account is closed out by IRS. Where the self-employed person reports his earnings and pays the tax for 40 quarters, thereby attaining the status of a fully insured individual, he will not drop out of the system if thereafter he fails to pay the tax on reported earnings and the tax liability is discharged in bankruptcy or the delinquent account is closed out by IRS. He merely will reduce the amount of earnings used as the basis for determining his primary insurance amount and thus possibly reduce the level of benefits payable on retirement, disability, or death.

The approximately 7 to 9.5 million self-employed persons in the taxpaying population will be affected if the proposed amendments are enacted. 23/

PROPOSED AMENDMENTS

The additional language that would have to be added to the appropriate sections of the Social Security Act is underlined.

Section 205(c)(2)(A) of the Social Security Act is amended by redesignating paragraph (2)(A) as paragraph (2)(A)(i) and by adding after clause (i) the following clause (ii):

EVIDENCE, PROCEDURES, AND CERTIFICATION
FOR PAYMENTS -- RULES AND REGULATIONS;
PROCEDURES

(2)(A)(ii) Beginning January 1, 19 , the Secretary shall establish and maintain records of the amounts of self-employment income tax paid pursuant to section 1401 of Title 26, Internal Revenue Code of 1954, with respect to self-employment income derived by such individual for any taxable year beginning in any calendar year after 19 and upon

23/Notwithstanding the increase in the categories of self-employed workers covered since 1950 the numbers of self-employed persons reporting taxable earnings as a percentage of the total of all covered workers has not varied substantially.

1951-1954	7 percent
1955-1959	10.3 percent
1960-1964	9 percent
1964-1969	7.5 percent
1970-1974	6.9 percent

Source: Social Security Bulletin, Annual Statistical Supplement 1974.

request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of such tax payments and of the periods with respect to which such tax was paid, as shown by such records at the time of such request.

Section 205(c)(3) of the Social Security Act is amended to read as follows:

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, self-employment income derived by, and self-employment income tax paid by an individual and of the periods in which such wages were paid, such self-employment income was derived, and self-employment tax paid. The absence of an entry in such records as to wages alleged to have been paid to, as to self-employment income alleged to have been derived by, or as to self-employment income tax alleged to have been paid by, an individual in any period shall be evidence that no such alleged wages were paid to, that no such alleged income was derived by or alleged tax paid by such individual during such period.

Section 205(c)(4) and subparagraphs (A) and (C) of paragraph (4) of subsection (b) of the Social Security Act are amended to read as follows:

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages, self-employment income, or self-employment income, or self-employment income tax in his records for such year is erroneous or that any item of wages, self-employment income, or self-employment income tax for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year--

(4)(A) The Secretary's records (with changes, if any, made pursuant to paragraph (5) of this subsection) of the amounts of wages paid to, self-employment income derived by, and self-employment tax paid by, an individual during any period in such year shall be conclusive for the purposes of this subchapter;

(4)(c) The absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year or self-employment tax paid by an individual with respect to such income shall be conclusive for the purposes of this subchapter that no such alleged self-employment income was derived by such individual in such year or alleged tax paid with respect to such income unless it is shown that he filed a tax return of his self-employment income for such year and paid the tax liability on such income before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

Section 205(c)(5) of the Social Security Act is amended by amending subparagraphs (B) and (H) of paragraph (5) of subsection (c), by redesignating subparagraph (H) as subparagraph (I), by redesignating subparagraph (I) as subparagraph (J), and by redesignating subparagraph (J) as subparagraph (K):

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, self-employment income was derived or alleged to have been derived by, or self-employment tax was paid or alleged to have been paid with respect to such income by, an individual, the Secretary may change or delete any entry with respect to wages, self-employment income, or self-employment tax payment in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages, self-employment income or self-employment income tax payment but only--

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, or the self-employment income tax paid, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(H) to correct errors made in the allocation to individuals or periods of self-employment income tax paid with respect to self-employment income derived by an individual for any taxable year beginning in any calendar year after 19 if there is an entry in the Secretary's records of such tax payment;

Section 205(c)(6) of the Social Security Act is amended to read as follows:

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages, self-employment income, and self-employment income tax paid for the period involved.

Section 211(b) of the Social Security Act is amended by redesignating paragraph (2) as paragraph (3) and by adding a new paragraph (2):

DEFINITIONS RELATING TO SELF-EMPLOYMENT

(b)(2) For any taxable year beginning in any calendar year after 19 self-employment income as defined in paragraph (1)(I) of this subsection with respect to which the tax imposed by section 1401 of Title 26, Internal Revenue Code of 1954, has not been paid; or

Section 212 of the Social Security Act is amended by adding after subsection (b) the following subsection (c):

(c) For the purposes of subsection (a) and (b) of this section in computing an individual's self-employment income derived during any taxable year beginning after calendar year 19 there shall not be counted self-employment income with respect to which the tax imposed by section 1401 of Title 26, Internal Revenue Code of 1954, has not been paid.

Section 213(a)(2) of the Social Security Act is amended by adding clause (vi) after clause (v):

(vi) if an individual has not paid the self-employment tax with respect to self-employment income derived during any taxable year beginning after calendar year 19 , no quarter, any part of which falls in such taxable year, shall be counted as a quarter of coverage.