

in section 61(a) of the Internal Revenue Code of 1986, exceeding 3 times the median household income for that preceding calendar year, as most recently reported by the Bureau of the Census; and

(4) has not assigned, granted, or conveyed, and is not under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the application concerned to an entity that, in the calendar year preceding the calendar year in which the applicable fee is being paid, had a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986, exceeding 3 times the median household income for that preceding calendar year, as most recently reported by the Bureau of the Census.

(b) APPLICATIONS RESULTING FROM PRIOR EMPLOYMENT.—An applicant is not considered to be named on a previously filed application for purposes of subsection (a)(2) if the applicant has assigned, or is under an obligation by contract or law to assign, all ownership rights in the application as the result of the applicant's previous employment.

(c) FOREIGN CURRENCY EXCHANGE RATE.—If an applicant's or entity's gross income in the preceding calendar year is not in United States dollars, the average currency exchange rate, as reported by the Internal Revenue Service, during that calendar year shall be used to determine whether the applicant's or entity's gross income exceeds the threshold specified in paragraphs<sup>1</sup> (3) or (4) of subsection (a).

(d) INSTITUTIONS OF HIGHER EDUCATION.—For purposes of this section, a micro entity shall include an applicant who certifies that—

(1) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is an institution of higher education as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or

(2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law, to assign, grant, or convey, a license or other ownership interest in the particular applications to such an institution of higher education.

(e) DIRECTOR'S AUTHORITY.—In addition to the limits imposed by this section, the Director may, in the Director's discretion, impose income limits, annual filing limits, or other limits on who may qualify as a micro entity pursuant to this section if the Director determines that such additional limits are reasonably necessary to avoid an undue impact on other patent applicants or owners or are otherwise reasonably necessary and appropriate. At least 3 months before any limits proposed to be imposed pursuant to this subsection take effect, the Director shall inform the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate of any such proposed limits.

(Added and amended Pub. L. 112-29, §§10(g)(1), 20(j), Sept. 16, 2011, 125 Stat. 318, 335.)

<sup>1</sup> So in original. Probably should be "paragraph".

#### AMENDMENT OF SECTION

*Pub. L. 112-29, § 20(j), (l), Sept. 16, 2011, 125 Stat. 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended by striking "of this title" each place that term appears. See 2011 Amendment note below.*

#### REFERENCES IN TEXT

Section 61(a) of the Internal Revenue Code of 1986, referred to in subsec. (a)(3), (4), is classified to section 61(a) of Title 26, Internal Revenue Code.

#### AMENDMENTS

2011—Subsec. (a). Pub. L. 112-29, § 20(j), struck out "of this title" after "purposes" in introductory provisions.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE

Section effective on Sept. 16, 2011, see section 10(i)(1) of Pub. L. 112-29, set out as a Fee Setting Authority note under section 41 of this title.

### CHAPTER 12—EXAMINATION OF APPLICATION

Sec. 131.	Examination of application.
132.	Notice of rejection; reexamination.
133.	Time for prosecuting application.
134.	Appeal to the Board of Patent Appeals and Interferences.
135.	Interferences.

#### AMENDMENT OF ANALYSIS

*Pub. L. 112-29, § 3(j)(5), (n), Sept. 16, 2011, 125 Stat. 291, 293, provided that, effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to certain applications for patent and any patents issuing thereon, this analysis is amended by amending item 134 to read "Appeal to the Patent Trial and Appeal Board." and item 135 to read "Derivation proceedings." See 2011 Amendment note below.*

#### AMENDMENTS

2011—Pub. L. 112-29, § 3(j)(5), Sept. 16, 2011, 125 Stat. 291, amended items 134 and 135 generally, substituting "Appeal to the Patent Trial and Appeal Board" for "Appeal to the Board of Patent Appeals and Interferences" in item 134 and "Derivation proceedings" for "Interferences" in item 135.

1984—Pub. L. 98-622, title II, § 204(b)(2), Nov. 8, 1984, 98 Stat. 3388, substituted "Patent Appeals and Interferences" for "Appeals" in item 134.

#### § 131. Examination of application

The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

(July 19, 1952, ch. 950, 66 Stat. 801; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536,