

the major portion of the services would be agricultural labor (§404.1057).

(b)(1) If the services are partly agricultural and partly non-agricultural, the time devoted to the performance of each type of service is the test used to determine whether the major portion of the services is agricultural labor.

(2) If more than half of the time spent in performing all the services is spent in performing services that are agricultural labor, the trade or business is agricultural.

(3) If half or less of the time spent in performing all the services is spent in performing services that are agricultural labor, the trade or business is not agricultural. The time spent in performing the services is figured by adding the time spent in the trade or business during the taxable year by every individual (including the individual carrying on the trade or business and the members of that individual's family).

(c) We do not apply the rules in this section if the non-agricultural services are performed in connection with a trade or business separate and distinct from the agricultural trade or business. A roadside automobile service station on a farm is a trade or business separate and distinct from the agricultural trade or business, and the gross income from the service station, less the deductions attributable to it, is to be considered in determining net earnings from self-employment.

(d) We consider a sharefarmer (see §404.1068(c)) or a materially participating owner or tenant (see §404.1082(c)) to be engaged in an agricultural trade or business. We use the rules in this section to determine whether a farm crew leader who is self-employed (see §404.1074) is engaged in an agricultural trade or business.

**§ 404.1096 Self-employment income.**

(a) *General.* Self-employment income is the amount of your net earnings from self-employment that is subject to social security tax and counted for social security benefit purposes. The term *self-employment income* means the net earnings from self-employment you derive in a taxable year, except as described in paragraphs (b), (c) and (d) of this section.

(b) *Maximum self-employment income.*

(1) The term *self-employment income* does not include that part of your net earnings from self-employment that exceeds (or that part of your net earnings from self-employment which, when added to the wages you received in that taxable year, exceeds)—

Taxable year	Amount
Ending before 1955 .....	\$3,600
Ending in 1955 through 1958 .....	4,200
Ending in 1959 through 1965 .....	4,800
Ending in 1966 and 1967 .....	6,600
Ending after 1967 and beginning before 1972 .....	7,800
Beginning in 1972 .....	9,000
Beginning in 1973 .....	10,800
Beginning in 1974 .....	13,200
Beginning in 1975 .....	14,100
Beginning in 1976 .....	15,300
Beginning in 1977 .....	16,500
Beginning in 1978 .....	17,700
Beginning in 1979 .....	22,900
Beginning in 1980 .....	25,900
Beginning in 1981 .....	29,700
Beginning in 1982 .....	32,400
Beginning in 1983 .....	35,700
Beginning in 1984 .....	37,800
Beginning in 1985 .....	39,600
Beginning in 1986 .....	42,000
Beginning in 1987 .....	43,800
Beginning in 1988 .....	45,000
Beginning in 1989 .....	48,000
Beginning in 1990 .....	51,300
Beginning in 1991 .....	53,400
Beginning in 1992 .....	55,500

(2) For the purpose of this paragraph the term *wages* includes remuneration paid to an employee for services covered by an agreement entered into under section 218 of the Act, or an agreement entered into under section 3121(1) of the Code, which would be wages under section 209 of Act if the services were considered employment under section 210(a) of the Act.

(c) *Minimum net earnings from self-employment.* (1) Self-employment income does not include your net earnings from self-employment when the amount of those earnings for the taxable year is less than \$400. If you have only \$300 of net earnings from self-employment for the taxable year you would not have any self-employment income. (Special rules apply if you are paid \$100 or more and work for a church or church-controlled organization that has exempted its employees (see §404.1068(f)).)

(2) If you have net earnings from self-employment of \$400 or more for the taxable year you may have less than

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\$400 of creditable self-employment income. This occurs where your net earnings from self-employment is \$400 or more for a taxable year and the amount of your net earnings from self-employment plus the amount of the wages paid to you during that taxable year exceed the maximum creditable earnings for a year. For example, if you had net earnings from self-employment of \$1,000 for 1978, and were also paid wages of \$17,500 during 1978, your creditable self-employment income for 1978 would be \$200.

(d) *Nonresident aliens.* A nonresident alien has self-employment income only if coverage is provided under a totalization agreement [see § 404.1913]. We do not consider an individual who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa to be a nonresident alien.

[45 FR 20075, Mar. 27, 1980, as amended at 50 FR 36575, Sept. 9, 1985; 52 FR 8250, Mar. 17, 1987; 57 FR 44098, Sept. 24, 1992; 69 FR 51556, Aug. 20, 2004]

### Subpart L [Reserved]

## Subpart M—Coverage of Employees of State and Local Governments

**AUTHORITY:** Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99-272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99-509, 100 Stat. 1970.

**SOURCE:** 53 FR 32976, Aug. 29, 1988, unless otherwise noted.

### GENERAL

#### § 404.1200 General.

(a) *Coverage under section 218 of the Act.* Under section 218 of the Social Security Act (the Act) a State may ask the Commissioner of Social Security to enter into an agreement to extend Federal old-age, survivors, disability and hospital insurance coverage to groups of employees of the State and its political subdivisions. The Commissioner shall enter into such an agreement. State and local government employees, after being covered under an agreement, have the same benefit rights and

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responsibilities as other employees who are mandatorily covered under the programs. For payments due on wages paid before 1987, the State assumes full financial and reporting responsibility for all groups covered under its agreement. The agreement may not be terminated in its entirety or with respect to any coverage group under that agreement. For payments due on wages paid in the year 1987 and years later, section 9002 of Pub. L. 99-509 amends section 218 of the Act by transferring responsibility for collecting contributions due and receiving wage reports from the Social Security Administration (SSA) to the Internal Revenue Service (IRS). Sections of the regulations wholly or partly affected by this amendment to the Act are appended with the phrase “—for wages paid prior to 1987.”

(b) *Mandatory old-age, survivors, disability, and hospital insurance coverage.* Under section 210(a)(7)(F) of the Act, mandatory old-age, survivors, disability, and hospital insurance coverage is extended to certain services performed after July 1, 1991, by individuals who are employees of a State (other than the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa), a political subdivision of the State, or any wholly owned instrumentality of one or more of the foregoing, and who are not members of the employer's retirement system. Certain services are excluded from such mandatory coverage (see § 404.1020(a)(3)).

[53 FR 32976, Aug. 29, 1988, as amended at 57 FR 59911, Dec. 17, 1992; 62 FR 38450, July 18, 1997; 69 FR 51556, Aug. 20, 2004]

#### § 404.1201 Scope of this subpart regarding coverage and wage reports and adjustments.

This subpart contains the rules of SSA about:

(a) Coverage under section 218 of the Act—

(1) How a State enters into and modifies an agreement; and

(2) What groups of employees a State can cover by agreement.

(b) Contributions, wage reports, and adjustments—for wages paid prior to 1987—