

Excerpts from section 3121 of the Federal Insurance Contributions Act—(continued)

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;

(B) service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior-law), is in effect, if such service is performed by an employee—

- (i) whose signature appears on the list filed by such organization under subsection (k) (or the corresponding subsection of prior-law);
- (ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed; or
- (iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121 (k) (1) (E), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121 (k) (1) (E) with respect to which no certificate is in effect.

(10) (A) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521, if the remuneration for such service is less than \$50;

(B) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly-attending classes at such school, college, or university;

(13) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law;

(d) EMPLOYEE.—For purposes of this chapter, the term "employee" means—

- (1) any officer of a corporation; or
- (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(k) EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—

(1) WAIVER OF EXEMPTION BY ORGANIZATION.—(A) An organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have the insurance system established by title 11 of the Social Security Act extended to service performed by its employees. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee (if any) who concurs in the filing of the certificate. Such list may be amended at any time prior to

the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list on lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

(B) The certificate shall be in effect (for the purposes of subsection (b) (8) (B) and for the purposes of section 210 (a) (8) (B) of the Social Security Act) for the period beginning with

whichever of the following may be designated by the organization:

- (i) the first day of the calendar quarter in which the certificate is filed;
- (ii) the first day of the calendar quarter succeeding such quarter, or
- (iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210 (a) (8) (B) of the Social Security Act): only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund, or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof; and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in either group, or may file a separate certificate pursuant to such subparagraph with respect to the employees in each group.

(G) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

- (i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and
- (ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.