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Revenue Ruling 55-431

Section 1402.-Definitions

July 1955

Generally, when an Individual accepts an occasional invitation to make a speech for which he receives an honorarium, he is not engaged in a trade or business for self-employment tax purposes. If, however, he seeks or otherwise indicates his availability for speaking engagements for which he receives lecture fees or other compensation and fills such engagements with reasonable regularity during the year, such activity would constitute a trade or business, the income from which is includible in computing net earnings from self-employment for purposes of the *Self-Employment Contributions Act of 1954*.

An inquiry has been received by the Internal Revenue Service relative to the status, for purposes of the Self-Employment Contributions Act of 1954 (chapter 2, subtitle A, Internal Revenue Code of 1954) of individuals, who make speeches for which they receive honorariums or lecture fees.

Section 1402 of the Act provides in part:

- (a) NET EARNINGS FROM SELF-EMPLOYMENT.-The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle [Subtitle A] which are attributable to such trade or business, * * * * *

- (c) TRADE OR BUSINESS.-The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162, * * * .

Whether a certain activity constitutes engaging in a "trade or business" is dependent upon all the facts and circumstances in the particular case. As a general rule, when a person is regularly engaged in an occupation or profession for profit and as to such occupation or profession, is not regarded as an employee for purposes of the taxes imposed by the *Federal Insurance Contributions Act* or otherwise excluded from the self-employment provisions, he is engaged in a "trade or business." Thus, lecturing or speech making may or may not be a trade or business depending upon whether such engagements are carried on with a degree of regularity, whether the individual seeks or otherwise indicates his availability for speaking engagements, and whether he receives compensation for his services.

Accordingly, as a general rule, an individual who accepts an occasional invitation to make a speech for which he receives an honorarium is not engaged in a "trade or business." However, if he seeks or otherwise indicates his availability for speaking engagements for which he receives

lecture fees or other compensation and fills such engagements with reasonable regularity during the year, such activity would constitute a "trade or business," the income from which is includible in computing net earnings from self-employment for purposes of the Self-Employment Contributions Act.

Regardless of whether such person is considered to be engaged in a trade or business as to such activity, the remuneration he receives constitutes taxable income to him even though designated as an honorarium.