



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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Dear [REDACTED]:

Your letter to President Bush dated April 10, 2002, regarding your concern that your payments of self-employment taxes were not credited to your Social Security records, was forwarded to our office for reply.

We are providing you with a copy of Publication 533, *Self-Employment Tax*, which explains what self-employment tax is, who must pay, as well as, how to figure and pay the taxes. Publication 533 specifically provides guidance for married couples that operate a business together.

Publication 533 explains that when a husband and wife join together in the conduct of a business and share in the profits and losses, a partnership has been created. The partnership must report the business income and expenses on Form 1065, U.S. Return of Partnership Income, along with Schedule K-1, Partner's Share of Income, Credits, Deductions, etc., showing each partner's share of net income. Both spouses must report the net income on Form 1040, U.S. Individual Income Tax Return, and file separate Schedule SE, Self-Employment Tax, to report their individual self-employment tax.

We appreciate your concern for the women who were not aware of the self-employment tax filing requirements discussed in Publication 533. The Internal Revenue Code laws upon which Publication 533 is based do protect wives who are in joint business ventures with their husbands where the statute of limitations has not expired for filing their Form 1040. The wives may file Forms 1040X, Amended U.S. Individual Income Tax Return, to change the social security credits for years 1999 to the present for which the statute of limitations has not expired. I believe It would be very difficult to enact new laws under the Code that would allow wives to change social security credits for 1998 and prior years where the statute of limitations has expired.

I hope this information is helpful to you. If you need additional information, please contact me or at (202) 622-6040.

Sincerely,

WILL E. MCLEOD
Chief, Employment Tax Branch 1
Division /Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure (Publication 533, *Self-Employment Tax*)