



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Pat Toomey
United States Senate
Washington, DC 20510

Attention:

Dear Senator Toomey:

I am responding to your inquiry dated November 3, 2016, on behalf of a group of your constituents consisting of () who earn their living through small agricultural operations and are exempt from either Self-Employment Contributions Act (SECA) tax or Federal Insurance Contributions Act (FICA) tax. These constituents have applied for and been granted an exemption by the Commissioner of Social Security from either SECA or FICA tax because they are members of and adhere to the tenets of a recognized religious sect or division that is conscientiously opposed to accepting the benefits of certain kinds of insurance, including insurance under the Social Security Act. These constituents asked whether their applications for grants under the United States Department of Agriculture (USDA) grant program, specifically through the National Resources Conservation Service, would cause them to lose their SECA or FICA tax exemption.

Generally, we cannot provide binding legal advice to taxpayers unless they request a private letter ruling as described in Revenue Procedure 2016-1, 2016-1 Internal Revenue Bulletin 1. However, I can provide the following general information.

The law provides an exemption from SECA taxes for certain individuals who are self-employed. This exemption applies to a member of a recognized religious sect or subdivision who follows the established tenets or teachings of the sect by reason of which the individual conscientiously opposes accepting the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for medical care

(including the benefits of any insurance system established by the Social Security Act) and who applies for the exemption. [section 1402(g)(1) of the Internal Revenue Code].

The individual must waive all benefits and other payments under Title II and XVIII of the Social Security Act on the basis of his or her wages and self-employment income, as well as benefits and other payments to the individual on the basis of the wages and self-employment income of any other person [section 1402(g)(1)(B) of the Internal Revenue Code].

In addition, the sect or subdivision must meet three requirements:

- The sect or subdivision must have been in existence continuously since December 31, 1950
- The sect or subdivision must provide for its dependent members at a reasonable standard of living
- The sect or subdivision must hold established tenets according to which it is opposed to public or private insurance [section 1402(g)(1)(C), (D), and (E) of the Internal Revenue Code].

In addition to the exemption from SECA taxes, the law provides a corresponding exemption from FICA taxes for employers and employees of the same religious sect or subdivision [section 3127 of the Internal Revenue Code]. The requirements for this exemption are the same as the exemption for SECA tax as described above, except that the employer and employee both have to apply for the exemption.

While you did not provide specific grant information, grants provided through the USDA grant program do not appear to provide the type of private or public insurance benefits to which individuals who apply for the SECA or FICA tax exemption discussed above are conscientiously opposed. If this is the case, then application or receipt of a USDA grant should not affect the SECA or FICA tax exemption that applies to members of recognized religious sects.

I hope this information is helpful. If you have any additional questions, please contact me at _____ or _____ at _____.

Sincerely,

Victoria A. Judson
Associate Chief Counsel
(Tax Exempt & Government Entities)