



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

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OFFICE OF
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Reference: Tax on Self-Employment Income: Definition of "Individual"

Dear _____ :

This letter is in response to your _____ letter requesting clarification of the definition of the word "individual" in the context of Title 26, Chapter 2, of the Internal Revenue Code (the "Code") imposing tax on self-employment income. You asked us to define the word "individual" as used in sections 1401-1403 of the Code. In addition, you have noted section 6017 of the Code and its use of the word "individual", as well as a Black's Law Dictionary (Seventh Edition) definition of the word "individual".

The Code does not define the word "individual"; however, § 7701(a)(1) of the Code defines "person" to mean "an individual, trust, estate, partnership, association, company or corporation." This definition implies that an individual cannot also be a trust, estate, partnership, association, company, or corporation. The legislative history to sections 1401 -1403 of the Code implies that the term refers to a single, human being when it states "[t]he trade or business must be 'carried on' by the individual, either personally or through agents or employees, in order for the income to be included in his 'net earnings from self-employment.' Accordingly, gross income derived by an individual from a trade or business carried on by him does not include income derived by a beneficiary from an estate or trust event though such income is derived from a trade or business carried on by the estate or trust." H.R. Rep. No. 1300, at 136 (1949). The court in Jonson v. Commissioner, 353 F.3d 1181 (10th Cir. 2003), examined the definition of the word "individual" and "interpret[ed] it in accordance with its ordinary, everyday meaning," as noted in United States v. New Mexico, 536 F.2d 1324,1328 (10th Cir. 1976). The court in Jonson determined the definition of "individual", in the context of eligibility to elect innocent spouse relief from liability, as "[a] human being regarded separately from a group or from society." This definition hailed from Webster's II New College Dictionary 565 (2001). The court also noted "[w]hen the word 'individual' is used elsewhere in the Internal Revenue Code, the context almost always compels it to be construed to mean a

human being. See e.g., 26 U.S.C. § 1(a), (c) (discussing married and unmarried individuals).”

Such is the case with the use of the term “individual” in the context of Title 26, Chapter 2, of the Code, as supported by use of the pronouns “he” and “his” in § 1402(a) and the regulations thereunder.

I hope this information is helpful. Please feel free to contact me or
of my staff at (), if you have any further questions.

Sincerely,

(Exempt Organizations/Employment
Tax/Government Entities)
(Tax Exempt & Government Entities)