

The effect of these positions of the Internal Revenue Service is to curtail, or possibly deny entirely, the tax advantages of the self-employed individuals retirement plan provisions if the taxpayer is an author, inventor, and so forth. The intent of the Congress in adopting the "earned income" concept was to limit the applicability of these provisions to the portion of a self-employed person's income which was a result of his individual efforts as distinguished from a return on capital. Your committee does not believe that for this purpose the classification of income from an author's writing (or an inventor's invention), which is so clearly a result of his individual efforts, as "earned" or not "earned" should depend upon the terms of the contract under which the author (or inventor) is to be compensated.

For the above reasons, the bill amends the self-employed individuals retirement plan provisions to provide that "earned income" includes gains (other than capital gains) and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property (other than good will) by an individual whose personal efforts created the property.

This amendment applies to taxable years ending after the date of enactment of the act.

*7. Exclusion of certain rents from personal holding company income (sec. 207 of the bill and sec. 543 of the code)*

Under existing law, if a company manufactures property and leases it to customers, the rents are treated as personal holding company income (unless the adjusted income from rents from all sources constitutes 50 percent or more of the adjusted ordinary gross income and unless the sum of the dividends paid during the year has reduced the other personal holding company income below 10 percent of the ordinary gross income). However, where the property manufactured by the taxpayer is sold instead of leased, the income from the sale is not treated as personal holding company income.

Your committee believes that ordinarily rental income arising from property manufactured by the taxpayers should be treated as ordinary business income rather than passive personal holding company income. It takes this position because it believes that rental income arising from property manufactured by the taxpayer, in reality, is no more passive than sales income derived from property manufactured by the taxpayer.

Accordingly, the amendment provides that compensation for the use of any tangible personal property manufactured or produced by the taxpayer is not to be treated as rental income under the personal holding company provisions if the taxpayer during the taxable year is engaged in manufacturing the same type of property from which he is receiving the rents. The effect of this is to treat this income (after it is reduced by applicable depreciation, taxes, rent, and interest paid) as ordinary business income in determining whether or not the corporation is a personal holding company. It is intended, in order for the provision to be applicable, that the manufacturing or production activity be substantial and more than minor assembly processes. (Tangible personal property here has the same meaning as in the case of the investment credit provision.)

The amendments apply to taxable years beginning after date of enactment, but taxpayers may elect to have the amendments apply to