

pensation for personal services from a trade or business (but does not include amounts which constitute a return on capital invested in the trade or business).

With respect to authors, the Internal Revenue Service took the position that if an author contracted to write articles for a given period or a book for a publisher who copyrighted the literary material and paid the author a stipulated amount of cash, plus a percentage of the income derived from the material, the consideration was for the author's personal services and constituted earned income. However, where the consideration received by an author was derived either from the sale, leasing, or renting of the author's writing, the consideration was held to be paid for the use or sale of property and not to constitute earned income. A similar position was taken by the Service with respect to inventors and others who created property through the application of their personal efforts.

*Explanation of provision.*—The act 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.

*Effective date.*—This amendment applies to taxable years ending after November 13, 1966.

6. *Exclusion of certain rents from personal holding company income (sec. 206 of the act and sec. 543 of the code)*

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

The act 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 years beginning on or before that date if such years end after December 31, 1965.