

neration paid after 1961 for services performed after 1961. The amendments made by subsections (e) and (f) of section 531 shall apply with respect to any week of unemployment which begins after December 31, 1960.” [The second sentence of section 535 was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 661.]

EFFECTIVE DATE OF 1954 AMENDMENT

Section 4(c) of act Sept. 1, 1954, provided that the amendment made by that section is effective with respect to services performed after Dec. 31, 1954.

APPLICABILITY TO FEDERAL LAND BANKS, FEDERAL INTERMEDIATE CREDIT BANKS, AND BANKS FOR COOPERATIVES

Section 531(g) of Pub. L. 86-778, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Notwithstanding section 203(b) of the Farm Credit Act of 1959, sections 3305(b), 3306(c)(6), and 3308 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], and sections 1501(a) and 1507(a) of the Social Security Act [sections 1361(a) and 1367 of Title 42, The Public Health and Welfare] shall be applicable, according to their terms, to the Federal land banks, Federal intermediate credit banks, and banks for cooperatives.”

§ 3306. Definitions

(a) Employer

For purposes of this chapter—

(1) In general

The term “employer” means, with respect to any calendar year, any person who—

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

(2) Agricultural labor

In the case of agricultural labor, the term “employer” means, with respect to any calendar year, any person who—

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$20,000 or more for agricultural labor, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

(3) Domestic service

In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term “employer” means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$1,000 or more for such service.

(4) Special rule

A person treated as an employer under paragraph (3) shall not be treated as an employer

with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.

(b) Wages

For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to \$7,000 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to \$7,000 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term “wages” only payments which are received under a workmen’s compensation law), or

(B) medical or hospitalization expenses in connection with sickness or accident disability, or

(C) death;

[(3) Repealed. Pub. L. 98-21, title III, §324(b)(3)(B), Apr. 20, 1983, 97 Stat. 124]

(4) any payment on account of sickness or accident disability, or medical or hospitaliza-

tion expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a),

(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6),

(D) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

(E) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3)),

(F) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;¹

(G) under a cafeteria plan (within the meaning of section 125) if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received, or

(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,²

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101, or

(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

[(8) Repealed. Pub. L. 98-21, title III, § 324(b)(3)(B), Apr. 20, 1983, 97 Stat. 124]

(9) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274(n));

(10) any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (i) death, or (ii) retirement for disability, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(11) remuneration for agricultural labor paid in any medium other than cash;

(12) any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans);

(13) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, 129, 134(b)(4), or 134(b)(5);

(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119;

(15) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(16) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 108(f)(4), 117, or 132;

(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b);

(18) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(d);

(19) remuneration on account of—

(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

(B) any disposition by the individual of such stock; or

¹ So in original. The semicolon probably should be a comma.

² So in original. The comma probably should be a semicolon.

(20) any benefit or payment which is excludable from the gross income of the employee under section 139B(b).

Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages. Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter.

(c) Employment

For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except—

(1) agricultural labor (as defined in subsection (k)) unless—

(A) such labor is performed for a person who—

(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)), or

(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

(B) such labor is not agricultural labor performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;

(3) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or

(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter;

(4) service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States;

(5) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(6) service performed in the employ of the United States Government or of an instrumentality of the United States which is—

(A) wholly or partially owned by the United States, or

(B) exempt from the tax imposed by section 3301 by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

(7) service performed in the employ of a State, or any political subdivision thereof, or in the employ of an Indian tribe, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions or Indian tribes; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301;

(8) service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a);

(9) service performed by an individual as an employee or employee representative as defined in section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351);

(10)(A) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a)

(other than an organization described in section 401(a)) or under section 521, if the remuneration for such service is less than \$50, or

(B) service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance, or

(C) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers, or

(D) service performed in the employ of a hospital, if such service is performed by a patient of such hospital;

(11) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) if the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law;

(14) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(15)(A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(16) service performed in the employ of an international organization;

(17) service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except—

(A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and

(B) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(18) service described in section 3121(b)(20);

(19) Service³ which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or (Q)), and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q), as the case may be;

(20) service performed by a full time student (as defined in subsection (q)) in the employ of an organized camp—

(A) if such camp—

(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33 $\frac{1}{3}$ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year; or

(21) service performed by a person committed to a penal institution.

³ So in original. Probably should not be capitalized.

(d) Included and excluded service

For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term “pay period” means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (c)(9).

(e) State agency

For purposes of this chapter, the term “State agency” means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(f) Unemployment fund

For purposes of this chapter, the term “unemployment fund” means a special fund, established under a State law and administered by a State agency, for the payment of compensation. Any sums standing to the account of the State agency in the Unemployment Trust Fund established by section 904 of the Social Security Act, as amended (42 U.S.C. 1104), shall be deemed to be a part of the unemployment fund of the State, and no sums paid out of the Unemployment Trust Fund to such State agency shall cease to be a part of the unemployment fund of the State until expended by such State agency. An unemployment fund shall be deemed to be maintained during a taxable year only if throughout such year, or such portion of the year as the unemployment fund was in existence, no part of the moneys of such fund was expended for any purpose other than the payment of compensation (exclusive of expenses of administration) and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

(1) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;

(2) the amounts specified by section 903(c)(2) or 903(d)(4) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices;⁴

(3) nothing in this subsection shall be construed to prohibit deducting any amount from

unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;

(4) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;

(5)⁵ amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor; and

(5)⁵ amounts may be withdrawn for the payment of allowances under a self-employment assistance program (as defined in subsection (t)).

(g) Contributions

For purposes of this chapter, the term “contributions” means payments required by a State law to be made into an unemployment fund by any person on account of having individuals in his employ, to the extent that such payments are made by him without being deducted or deductible from the remuneration of individuals in his employ.

(h) Compensation

For purposes of this chapter, the term “compensation” means cash benefits payable to individuals with respect to their unemployment.

(i) Employee

For purposes of this chapter, the term “employee” has the meaning assigned to such term by section 3121(d), except that paragraph (4) and subparagraphs (B) and (C) of paragraph (3) shall not apply.

(j) State, United States, and American employer

For purposes of this chapter—

(1) State

The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) United States

The term “United States” when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(3) American employer

The term “American employer” means a person who is—

(A) an individual who is a resident of the United States,

(B) a partnership, if two-thirds or more of the partners are residents of the United States,

(C) a trust, if all of the trustees are residents of the United States, or

(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States)

⁴ So in original. The comma probably should be a semicolon.

⁵ So in original. Two pars. (5) have been enacted.

shall be considered, for purposes of this section, as a citizen of the United States.

(k) Agricultural labor

For purposes of this chapter, the term “agricultural labor” has the meaning assigned to such term by subsection (g) of section 3121, except that for purposes of this chapter subparagraph (B) of paragraph (4) of such subsection (g) shall be treated as reading:

“(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (A), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;”.

[(D) Repealed. Sept. 1, 1954, ch. 1212, §4(c), 68 Stat. 1135]

(m) American vessel and aircraft

For purposes of this chapter, the term “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term “American aircraft” means an aircraft registered under the laws of the United States.

(n) Vessels operated by general agents of United States

Notwithstanding the provisions of subsection (c)(6), service performed by officers and members of the crew of a vessel which would otherwise be included as employment under subsection (c) shall not be excluded by reason of the fact that it is performed on or in connection with an American vessel—

(1) owned by or bareboat chartered to the United States and

(2) whose business is conducted by a general agent of the Secretary of Commerce.

For purposes of this chapter, each such general agent shall be considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account, and the officers and members of the crew of such an American vessel whose business is conducted by a general agent of the Secretary of Commerce shall be deemed to be performing services for such general agent rather than the United States. Each such general agent who in his capacity as such is an employer within the meaning of subsection (a) shall be subject to all the requirements imposed upon an employer under this chapter with respect to service which constitutes employment by reason of this subsection.

(o) Special rule in case of certain agricultural workers

(1) Crew leaders who are registered or provide specialized agricultural labor

For purposes of this chapter, any individual who is a member of a crew furnished by a crew

leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

(A) if—

(i) such crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act; or

(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(B) if such individual is not an employee of such other person within the meaning of subsection (i).

(2) Other crew leaders

For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

(A) such other person and not the crew leader shall be treated as the employer of such individual; and

(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

(3) Crew leader

For purposes of this subsection, the term “crew leader” means an individual who—

(A) furnishes individuals to perform agricultural labor for any other person,

(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(p) Concurrent employment by two or more employers

For purposes of sections 3301, 3302, and 3306(b)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(q) Full time student

For purposes of subsection (c)(20), an individual shall be treated as a full time student for any period—

(1) during which the individual is enrolled as a full time student at an educational institution, or

(2) which is between academic years or terms if—

(A) the individual was enrolled as a full time student at an educational institution for the immediately preceding academic year or term, and

(B) there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (A).

(r) Treatment of certain deferred compensation and salary reduction arrangements

(1) Certain employer contributions treated as wages

Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term “wages”—

(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(e)(3), or

(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).

(2) Treatment of certain nonqualified deferred compensation plans

(A) In general

Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

- (i) when the services are performed, or
- (ii) when there is no substantial risk of forfeiture of the rights to such amount.

(B) Taxed only once

Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

(C) Nonqualified deferred compensation plan

For purposes of this paragraph, the term “nonqualified deferred compensation plan” means any plan or other arrangement for deferral of compensation other than a plan described in subsection (b)(5).

(s) Tips treated as wages

For purposes of this chapter, the term “wages” includes tips which are—

- (1) received while performing services which constitute employment, and
- (2) included in a written statement furnished to the employer pursuant to section 6053(a).

(t) Self-employment assistance program

For the purposes of this chapter, the term “self-employment assistance program” means a program under which—

- (1) individuals who meet the requirements described in paragraph (3) are eligible to receive an allowance in lieu of regular unemployment compensation under the State law

for the purpose of assisting such individuals in establishing a business and becoming self-employed;

(2) the allowance payable to individuals pursuant to paragraph (1) is payable in the same amount, at the same interval, on the same terms, and subject to the same conditions, as regular unemployment compensation under the State law, except that—

(A) State requirements relating to availability for work, active search for work, and refusal to accept work are not applicable to such individuals;

(B) State requirements relating to disqualifying income are not applicable to income earned from self-employment by such individuals; and

(C) such individuals are considered to be unemployed for the purposes of Federal and State laws applicable to unemployment compensation,

as long as such individuals meet the requirements applicable under this subsection;

(3) individuals may receive the allowance described in paragraph (1) if such individuals—

(A) are eligible to receive regular unemployment compensation under the State law, or would be eligible to receive such compensation except for the requirements described in subparagraph (A) or (B) of paragraph (2);

(B) are identified pursuant to a State worker profiling system as individuals likely to exhaust regular unemployment compensation; and

(C) are participating in self-employment assistance activities which—

- (i) include entrepreneurial training, business counseling, and technical assistance; and
- (ii) are approved by the State agency; and

(D) are actively engaged on a full-time basis in activities (which may include training) relating to the establishment of a business and becoming self-employed;

(4) the aggregate number of individuals receiving the allowance under the program does not at any time exceed 5 percent of the number of individuals receiving regular unemployment compensation under the State law at such time;

(5) the program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in such program; and

(6) the program meets such other requirements as the Secretary of Labor determines to be appropriate.

(u) Indian tribe

For purposes of this chapter, the term “Indian tribe” has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), and includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 447; Sept. 1, 1954, ch. 1212, §§1, 4(c), 68 Stat. 1130, 1135; Pub. L. 86-70, §22(a), June 25, 1959, 73 Stat. 146; Pub. L. 86-624, §18(d), July 12, 1960, 74 Stat. 416; Pub. L. 86-778, title V, §§531(c), 532-534, 543(a), Sept. 13, 1960, 74 Stat. 983, 984, 986; Pub. L. 87-256, §110(f), Sept. 21, 1961, 75 Stat. 537; Pub. L. 87-792, §7(k), Oct. 10, 1962, 76 Stat. 830; Pub. L. 88-650, §4(c), Oct. 13, 1964, 78 Stat. 1077; Pub. L. 90-248, title V, §504(b), Jan. 2, 1968, 81 Stat. 935; Pub. L. 91-53, §1, Aug. 7, 1969, 83 Stat. 91; Pub. L. 91-373, title I, §§101(a), 102(a), 103(a), 105(a), (b), 106(a), title III, §302, Aug. 10, 1970, 84 Stat. 696, 697, 699, 700, 713; Pub. L. 94-455, title XIX, §§1903(a)(16), 1906(b)(13)(C), Oct. 4, 1976, 90 Stat. 1810, 1834; Pub. L. 94-566, title I, §§111(a), (b), 112(a), 113(a), 114(a), 116(b), title II, §211(a), Oct. 20, 1976, 90 Stat. 2667-2669, 2672, 2676; Pub. L. 95-216, title III, §314(b), Dec. 20, 1977, 91 Stat. 1536; Pub. L. 95-472, §3(a), Oct. 17, 1978, 92 Stat. 1333; Pub. L. 95-600, title I, §164(b)(2), Nov. 6, 1978, 92 Stat. 2813; Pub. L. 96-84, §4(a), (b), Oct. 10, 1979, 93 Stat. 654; Pub. L. 96-222, title I, §101(a)(10)(B)(ii), Apr. 1, 1980, 94 Stat. 201; Pub. L. 96-499, title XI, §1141(b), Dec. 5, 1980, 94 Stat. 2694; Pub. L. 97-34, title I, §124(e)(2)(A), title VIII, §822(a), Aug. 13, 1981, 95 Stat. 200, 351; Pub. L. 97-248, title II, §§271(a), 276(a)(1), (b)(1), (2), 277, Sept. 3, 1982, 96 Stat. 554, 558, 559; Pub. L. 98-21, title III, §§324(b)(1)-(4)(B), 327(c), 328(c), Apr. 20, 1983, 97 Stat. 123, 124, 127, 128; Pub. L. 98-135, title II, §§201(a), 202, Oct. 24, 1983, 97 Stat. 860; Pub. L. 98-369, div. A, title IV, §491(d)(37), title V, §531(d)(3), div. B, title VI, §2661(o)(4), July 18, 1984, 98 Stat. 851, 884, 1159; Pub. L. 99-272, title XII, §12401(b)(2), title XIII, §13303(a), Apr. 7, 1986, 100 Stat. 297, 327; Pub. L. 99-509, title IX, §9002(b)(2)(B), Oct. 21, 1986, 100 Stat. 1971; Pub. L. 99-514, title I, §122(e)(3), title XI, §§1108(g)(8), 1151(d)(2)(B), title XVIII, §§1884(3), 1899A(44), (45), Oct. 22, 1986, 100 Stat. 2112, 2435, 2505, 2919, 2961; Pub. L. 99-595, Oct. 31, 1986, 100 Stat. 3348; Pub. L. 100-647, title I, §§1001(d)(2)(C)(iii), (g)(4)(B)(ii), 1011B(a)(22)(C), (23)(A), 1018(u)(50), title VIII, §8016(a)(3)(B), Nov. 10, 1988, 102 Stat. 3351, 3352, 3486, 3593, 3792; Pub. L. 101-140, title II, §203(a)(2), Nov. 8, 1989, 103 Stat. 830; Pub. L. 102-318, title III, §303(a), title IV, §401(a)(2), title V, §521(b)(35), July 3, 1992, 106 Stat. 297, 298, 312; Pub. L. 103-182, title V, §507(a), (b)(2), Dec. 8, 1993, 107 Stat. 2153, 2154; Pub. L. 103-296, title III, §320(a)(1)(E), Aug. 15, 1994, 108 Stat. 1535; Pub. L. 103-465, title VII, §702(c)(2), Dec. 8, 1994, 108 Stat. 4997; Pub. L. 104-188, title I, §§1203(a), 1421(b)(8)(C), 1704(t)(10), Aug. 20, 1996, 110 Stat. 1773, 1798, 1888; Pub. L. 104-191, title III, §301(c)(2)(B), Aug. 21, 1996, 110 Stat. 2049; Pub. L. 105-33, title V, §5406(a), Aug. 5, 1997, 111 Stat. 605; Pub. L. 106-554, §1(a)(7) [title I, §166(a), (d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-627; Pub. L. 107-147, title II, §209(d)(1), Mar. 9, 2002, 116 Stat. 33; Pub. L. 108-121, title I, §106(b)(3), Nov. 11, 2003, 117 Stat. 1339; Pub. L. 108-173, title XII, §1201(d)(2)(B), Dec. 8, 2003, 117 Stat. 2477; Pub. L. 108-357, title II, §251(a)(3), title III, §320(b)(3), Oct. 22, 2004, 118 Stat. 1458, 1473; Pub. L. 108-375, div. A, title V, §585(b)(2)(C), Oct. 28, 2004, 118 Stat. 1932; Pub. L. 110-245, title I, §115(b), June 17, 2008, 122 Stat. 1636.)

REFERENCES IN TEXT

Section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974, referred to in subsec.

(b)(5)(F), is classified to section 1002(2)(B)(ii) of Title 29, Labor.

Subchapter C of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (c), was comprised of sections 1600 to 1611 of former Title 26, Internal Revenue Code. Subchapter C of chapter 9 was repealed by section 7851(a)(3) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see table I preceding section 1 of this title. See, also, section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, referred to in subsec. (c)(1)(B), are classified to sections 1184(c) and 1101(a)(15)(H), respectively, of Title 8, Aliens and Nationality.

Sections 303(g), 903(c)(2), (d)(4), and 904(a) of the Social Security Act, referred to in subsecs. (f)(2), (4) and (t)(5), are classified to sections 503(g), 1103(c)(2), (d)(4), and 1104(a), respectively, of Title 42, The Public Health and Welfare.

The Migrant and Seasonal Agricultural Worker Protection Act, referred to in subsec. (o)(1)(A)(i), is Pub. L. 97-470, Jan. 14, 1983, 96 Stat. 2584, as amended, which is classified generally to chapter 20 (§1801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 29 and Tables.

AMENDMENTS

- 2008—Subsec. (b)(20). Pub. L. 110-245 added par. (20).
- 2004—Subsec. (b)(13). Pub. L. 108-375 substituted “134(b)(4), or 134(b)(5)” for “or 134(b)(4)”.
- Subsec. (b)(16). Pub. L. 108-357, §320(b)(3), inserted “108(f)(4),” after “74(c).”
- Subsec. (b)(19). Pub. L. 108-357, §251(a)(3), added par. (19).
- 2003—Subsec. (b)(13). Pub. L. 108-121 substituted “129, or 134(b)(4)” for “or 129”.
- Subsec. (b)(18). Pub. L. 108-173 added par. (18).
- 2002—Subsec. (f)(2). Pub. L. 107-147 inserted “or 903(d)(4)” before “of the Social Security Act”.
- 2000—Subsec. (c)(7). Pub. L. 106-554, §1(a)(7) [title I, §166(a)], inserted “or in the employ of an Indian tribe,” after “service performed in the employ of a State, or any political subdivision thereof,” and “or Indian tribes” after “wholly owned by one or more States or political subdivisions”.
- Subsec. (u). Pub. L. 106-554, §1(a)(7) [title I, §166(d)], added subsec. (u).
- 1997—Subsec. (c)(21). Pub. L. 105-33 added par. (21).
- 1996—Subsec. (b)(5)(H). Pub. L. 104-188, §1421(b)(8)(C), added subpar. (H).
- Subsec. (b)(17). Pub. L. 104-191 added par. (17).
- Subsec. (c)(1)(B). Pub. L. 104-188, §1203(a), struck out “before January 1, 1995,” after “labor performed”.
- Subsec. (k). Pub. L. 104-188, §1704(t)(10), inserted a period at end.
- 1994—Subsec. (c)(19). Pub. L. 103-296 substituted “(J), (M), or (Q)” for “(J), or (M)” wherever appearing.
- Subsec. (f)(3) to (5). Pub. L. 103-465 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5) relating to payment of short-time compensation, respectively.
- 1993—Subsec. (f)(5). Pub. L. 103-182, §507(b)(2), added par. (5).
- Subsec. (t). Pub. L. 103-182, §507(a), added subsec. (t).
- 1992—Subsec. (c)(1)(B). Pub. L. 102-318, §303(a), substituted “1995” for “1993”.
- Subsec. (f)(4). Pub. L. 102-318, §401(a)(2), added par. (4).
- Subsec. (r)(1)(A). Pub. L. 102-318, §521(b)(35), substituted “402(e)(3)” for “402(a)(8)”.
- 1989—Subsec. (t). Pub. L. 101-140 amended this section to read as if amendments by Pub. L. 100-647, §1011B(a)(22)(C), had not been enacted, see 1988 Amendment note below.
- 1988—Subsec. (b)(5)(G). Pub. L. 100-647, §1011B(a)(23)(A), inserted “if such payment would not

be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

Subsec. (b)(9). Pub. L. 100-647, §1001(g)(4)(B)(ii), inserted "(determined without regard to section 274(n))" after "section 217".

Subsec. (c)(1)(B). Pub. L. 100-647, §1018(u)(50), amended Pub. L. 99-272, §13303(a), see 1986 Amendment notes below.

Subsec. (c)(19). Pub. L. 100-647, §1001(d)(2)(C)(iii), substituted "(F), (J), or (M)" for "(F) or (J)" in three places.

Subsec. (i). Pub. L. 100-647, §8016(a)(3)(B), substituted "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)" for "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)".

Subsec. (t). Pub. L. 100-647, §1011B(a)(22)(C), added subsec. (t) relating to benefits provided under certain employee benefit plans.

1986—Subsec. (b)(2)(A). Pub. L. 99-514, §1899A(44), substituted "workmen's compensation" for "workman's compensation".

Subsec. (b)(5)(C). Pub. L. 99-514, §1108(g)(8), added subpar. (C) and struck out former subpar. (C) which read as follows: "under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) for such payment,".

Subsec. (b)(5)(G). Pub. L. 99-514, §1151(d)(2)(B), added subpar. (G).

Subsec. (b)(13). Pub. L. 99-514, §1899A(45), substituted a semicolon for a comma.

Subsec. (b)(16). Pub. L. 99-514, §122(e)(3), inserted reference to section 74(c).

Subsec. (c)(1)(B). Pub. L. 99-595 substituted "January 1, 1993" for "January 1, 1988".

Pub. L. 99-272, §13303(a), as amended by Pub. L. 100-647, §1018(u)(50), substituted "January 1, 1988" for "January 1, 1986".

Subsec. (f)(3). Pub. L. 99-272, §12401(b)(2), added par. (3).

Subsec. (i). Pub. L. 99-509 substituted "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" for "subparagraphs (B) and (C) of paragraph (3)".

Subsec. (o)(1)(A)(i). Pub. L. 99-514, §1884(3), substituted "Migrant and Seasonal Agricultural Worker Protection Act" for "Farm Labor Contractor Registration Act of 1963".

1984—Subsec. (b). Pub. L. 98-369, §531(d)(3)(A), in provisions preceding par. (1), inserted "(including benefits)".

Subsec. (b)(5)(C) to (G). Pub. L. 98-369, §491(d)(37), struck out subpar. (C) which provided: "under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a)," and redesignated subpars. (D) to (G) as (C) to (F), respectively.

Subsec. (b)(16). Pub. L. 98-369, §531(d)(3)(B), added par. (16).

Subsec. (r)(1)(B). Pub. L. 98-369, §2661(o)(4), substituted "section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)" for "section 414(h)(2)".

Subsec. (s). Pub. L. 98-369, §1073(a), added subsec. (s).
1983—Subsec. (b). Pub. L. 98-21, §327(c)(4), added sentence at end providing that nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in regulations prescribed for purposes of this chapter.

Pub. L. 98-21, §324(b)(4)(B), added sentence at end providing that, except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of parenthetical text contained in subpar. (A) of par. (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages.

Subsec. (b)(2). Pub. L. 98-21, §324(b)(3)(A), (4)(A), struck out "(A) retirement or", redesignated subpars. (B) to (D) as (A) to (C), respectively, and in subpar. (A), as so redesignated, substituted "sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workman's compensation law)" for "sickness or accident disability".

Subsec. (b)(3). Pub. L. 98-21, §324(b)(3)(B), struck out par. (3) which related to any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement.

Subsec. (b)(5)(D). Pub. L. 98-21, §328(c), substituted "section 219(b)(2)" for "section 219".

Subsec. (b)(5)(E) to (G). Pub. L. 98-21, §324(b)(2), added subpars. (E) to (G).

Subsec. (b)(8). Pub. L. 98-21, §324(b)(3)(B), struck out par. (8) which related to any payment (other than vacation or sick pay) made to an employee after the month in which he attained the age of 65, if he did not work for the employer in the period for which such payment was made.

Subsec. (b)(10)(A). Pub. L. 98-21, §324(b)(3)(C), struck out cl. (iii) which related to retirement after attaining an age specified in the plan referred to in subpar. (B) or in a pension plan of the employer.

Subsec. (b)(14). Pub. L. 98-21, §327(c)(1)–(3), added par. (14).

Subsec. (b)(15). Pub. L. 98-135, §201(a), added par. (15).
Subsec. (c)(1)(B). Pub. L. 98-135, §202, substituted "1986" for "1984".

Subsec. (r). Pub. L. 98-21, §324(b)(1), added subsec. (r).
1982—Subsec. (b)(1). Pub. L. 97-248, §271(a), substituted "\$7,000" for "\$6,000" wherever appearing.

Subsec. (c)(1)(B). Pub. L. 97-248, §277, substituted "1984" for "1982".

Subsec. (c)(10)(C). Pub. L. 97-248, §276(a)(1), struck out "under the age of 22" after "service performed by an individual".

Subsec. (c)(20). Pub. L. 97-248, §276(b)(1), added par. (20).

Subsec. (q). Pub. L. 97-248, §276(b)(2), added subsec. (q).

1981—Subsec. (b)(13). Pub. L. 97-34, §124(e)(2)(A), substituted "section 127 or 129" for "section 127".

Subsec. (c)(18), (19). Pub. L. 97-34, §822(a), added par. (18) and redesignated former par. (18) as (19).

1980—Subsec. (b)(5)(D). Pub. L. 96-222 added subpar. (D).

Subsec. (b)(6). Pub. L. 96-499 struck out "(or the corresponding section of prior law)" after "section 3101" in subpar. (A) and inserted "with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor" following subpar. (B).

1979—Subsec. (c)(1)(A). Pub. L. 96-84, §4(b), substituted "including labor performed by an alien" for "not taking into account labor performed before January 1, 1980, by an alien" in parenthetical text of cls. (i) and (ii).

Subsec. (c)(1)(B). Pub. L. 96-84, §4(a), substituted "January 1, 1982" for "January 1, 1980".

1978—Subsec. (b)(12). Pub. L. 95-472 added par. (12).

Subsec. (b)(13). Pub. L. 95-600 added par. (13).

1977—Subsec. (p). Pub. L. 95-216 added subsec. (p).

1976—Subsec. (a). Pub. L. 94-566, §114(a), redesignated existing provisions, consisting of an introductory phrase and pars. (1) and (2), as par. (1), consisting of an introductory phrase and subpars. (A) and (B), inserted provisions following subpar. (B) as so redesignated, and added pars. (2), (3), and (4).

Subsec. (b)(1). Pub. L. 94-566, §211(a), substituted "\$6,000" for "\$4,200" wherever appearing.

Subsec. (b)(11). Pub. L. 94-566, §111(a), added par. (11).

Subsec. (c). Pub. L. 94-566, §116(b)(1), struck out "or in the Virgin Islands" after "agreement relating to unemployment compensation" in parenthetical provisions of cl. (B) preceding par. (1).

Subsec. (c)(1). Pub. L. 94-566, §111(b), inserted “unless” after “subsection (k)” and added subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 94-566, §113(a), inserted “unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year” after “sorority”.

Subsec. (c)(9). Pub. L. 94-455, §1903(a)(16)(A), struck out “52 Stat. 1094, 1095;” before “45 U.S.C. 351”.

Subsec. (c)(12)(B). Pub. L. 94-455, §1906(b)(13)(C), substituted “to the Secretary of the Treasury” for “to the Secretary”.

Subsec. (c)(18). Pub. L. 94-455, §1903(a)(16)(B), inserted “(8 U.S.C. 1101(a)(15)(F) or (J))” after “Immigration and Nationality Act, as amended”.

Subsec. (f). Pub. L. 94-455, §1903(a)(16)(C), struck out “49 Stat. 640; 52 Stat. 1104, 1105;” before “42 U.S.C. 1104”.

Subsec. (j). Pub. L. 94-566, §116(b)(2), inserted reference to the Virgin Islands in pars. (1) and (2) and in provisions following par. (3).

Subsec. (n). Pub. L. 94-455, §1903(a)(16)(D), struck out “on or after July 1, 1953,” after “service performed”.

Subsec. (o). Pub. L. 94-566, §112(a), added subsec. (o).

1970—Subsec. (a). Pub. L. 91-373, §101(a), expanded definition of “employer” by reducing from 4 to 1 the number of individuals which a person had to employ on each of some 20 days during the calendar year or the preceding calendar year in order to qualify as an employer and inserted provisions making a person an employer who paid wages of \$1,500 or more during any calendar quarter in the calendar year or the preceding calendar year.

Subsec. (b)(1). Pub. L. 91-373, §302, substituted “\$4,200” for “\$3,000”.

Subsec. (c). Pub. L. 91-373, §105(a), inserted reference to service performed after 1971 outside the United States by a citizen of the United States as an employee of an American employer.

Subsec. (c)(10). Pub. L. 91-373, §106(a), designated existing provisions of subpar. (B) as cl. (i) thereof and added cl. (ii) of subpar. (B) and subpars. (C) and (D).

Subsec. (i). Pub. L. 91-373, §102(a), substituted meaning assigned “employee” by section 3121(d) of this title, except that subpars. (B) and (C) of par. (3) were not applicable, as meaning of “employee” for purposes of this chapter for a definition of “employee” as persons including officers of corporations but not including independent contractors under common law rules or persons not employees under such rules.

Subsec. (j)(3). Pub. L. 91-373, §105(b), inserted definition of “American employer”.

Subsec. (k). Pub. L. 91-373, §103(a), substituted as definition of “agricultural labor” a simple reference to that term as defined, with a minor exception, in section 3121 of this title for a full definition of the term, the result of which, in view of the substance of section 3121, excluded from the definition of agricultural labor services performed in connection with the production or harvesting of maple sirup, maple sugar, or mushrooms, or the hatching of poultry unless performed on a farm, and provided a new series of tests to determine whether the handling, planting, drying, packing, processing, freezing, grading, storing, or delivering agricultural or horticultural commodities constitute agricultural labor.

1969—Subsec. (a). Pub. L. 90-53 made status of employer depend also on employment during preceding taxable year.

1968—Subsec. (b)(10). Pub. L. 90-248 added par. (10).

1964—Subsec. (b)(9). Pub. L. 88-650 added par. (9).

1962—Subsec. (b)(5). Pub. L. 87-792 substituted “is a plan described in section 403(a)” for “meets the requirements of section 401(a)(3), (4), (5), and (6)” in subpar. (B), and added subpar. (C).

1961—Subsec. (c)(18). Pub. L. 87-256 added par. (18).

1960—Subsec. (c). Pub. L. 86-778, §532(a), included employment on or in connection with an American aircraft within cl. (B) of the opening provisions.

Subsec. (c)(4). Pub. L. 86-778, §532(b), excluded service performed on or in connection with an aircraft that is not an American aircraft.

Subsec. (c)(6). Pub. L. 86-778, §531(c), substituted “wholly or partially owned” for “wholly owned” in cl. (A), and inserted “which specifically refers to such section (or the corresponding section of prior law) in granting such exemption” in cl. (B).

Subsec. (c)(8). Pub. L. 86-778, §533, substituted “service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a)” for “service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.”

Subsec. (c)(10). Pub. L. 86-778, §534, struck out provisions which excepted from definition of “employment” service in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association which is performed away from the home office or is ritualistic service in connection with any such society, order, or association, service performed in the employ of an agricultural or horticultural organization described in section 501(c)(5) of this title, service performed in the employ of a voluntary employees’ beneficiary association providing for the payment of life, sick, accident, or other benefits to members or their dependents or designated beneficiaries, and service performed in the employ of a school, college, or university, not exempt from income tax under section 501(a) of this title if such service is performed by a student who is enrolled and regularly attending classes.

Subsec. (j). Pub. L. 86-778, §543(a), included the Commonwealth of Puerto Rico and struck out “Hawaii” from definition of “State”, defined “United States”, and inserted provisions requiring an individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) to be considered for purposes of this section, as a citizen of the United States.

Pub. L. 86-624 struck out “Hawaii, and” before “the District of Columbia”.

Subsec. (m). Pub. L. 86-778, §532(c), included aircraft in heading and defined “American aircraft”.

1959—Subsec. (j). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

1954—Subsec. (a). Act Sept. 1, 1954, changed definition of employer from “eight or more” to “4 or more”.

Subsec. (l). Act Sept. 1, 1954, repealed subsec. (l) which related to certain employees of Bonneville Power Administrator.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-245 effective as if included in section 5 of Pub. L. 110-142, see section 115(d) of Pub. L. 110-245, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by Pub. L. 108-375 applicable to travel benefits provided after Oct. 28, 2004, see section 585(b)(3) of Pub. L. 108-375, set out as a note under section 134 of this title.

Amendment by section 251(a)(3) of Pub. L. 108-357 applicable to stock acquired pursuant to options exercised after Oct. 22, 2004, see section 251(d) of Pub. L. 108-357, set out as a note under section 421 of this title.

Amendment by section 320(b)(3) of Pub. L. 108-357 applicable to amounts received by an individual in taxable years beginning after Dec. 31, 2003, see section 320(c) of Pub. L. 108-357, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108-173 applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as a note under section 62 of this title.

Amendment by Pub. L. 108-121 applicable to taxable years beginning after Dec. 31, 2002, see section 106(c) of Pub. L. 108-121, set out as a note under section 134 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT; TRANSITION RULE

Pub. L. 106-554, §1(a)(7) [title I, §166(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A-628, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and section 3309 of this title] shall apply to service performed on or after the date of the enactment of this Act [Dec. 21, 2000].

“(2) TRANSITION RULE.—For purposes of the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], service performed in the employ of an Indian tribe (as defined in section 3306(u) of the Internal Revenue Code of 1986 (as added by this section)) shall not be treated as employment (within the meaning of section 3306 of such Code) if—

“(A) it is service which is performed before the date of the enactment of this Act [Dec. 21, 2000] and with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid, and

“(B) such Indian tribe reimburses a State unemployment fund for unemployment benefits paid for service attributable to such tribe for such period.”

EFFECTIVE DATE OF 1997 AMENDMENT

Section 5406(b) of Pub. L. 105-33 provided that: “The amendments made by this section [amending this section] shall apply with respect to service performed after January 1, 1994.”

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

Section 1203(b) of Pub. L. 104-188 provided that: “The amendment made by subsection (a) [amending this section] shall apply to services performed after December 31, 1994.”

Amendment by section 1421(b)(8)(C) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103-465 applicable to payments made after Dec. 31, 1996, see section 702(d) of Pub. L. 103-465, set out as a note under section 3304 of this title.

Amendment by Pub. L. 103-296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103-296, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 507(e) of Pub. L. 103-182, as amended by Pub. L. 105-306, §3, Oct. 28, 1998, 112 Stat. 2926, provided that: “The provisions of this section [amending this section, section 3304 of this title, and section 503 of Title 42, The Public Health and Welfare, and enacting provisions set out below] and the amendments made by this section shall take effect on the date of the enactment of this Act [Dec. 8, 1993].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 521(b)(35) of Pub. L. 102-318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(a)(22)(C) of Pub. L. 100-647 not applicable to any individual who separated from service with the employer before Jan. 1, 1989, see section 1011B(a)(22)(F) of Pub. L. 100-647, set out as a note under section 3121 of this title.

Section 1018(u)(50) of Pub. L. 100-647 provided that the amendment made by that section is effective Apr. 7, 1986.

Amendment by sections 1001(d)(2)(C)(iii), (g)(4)(B)(ii), and 1011B(a)(23)(A) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 8016(a)(3)(B) of Pub. L. 100-647 effective Nov. 10, 1988, except that any amendment to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.], or to this title as added or amended by a provision of a particular Public Law which is so referred to, effective as though included or reflected in the relevant provisions of that Public Law at the time of its enactment, see section 8016(b) of Pub. L. 100-647, set out as a note under section 3111 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 122(e)(3) of Pub. L. 99-514 applicable to prizes and awards granted after Dec. 31, 1986, see section 151(c) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 1108(g)(8) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1986, see section 1108(h) of Pub. L. 99-514, set out as a note under section 219 of this title.

Amendment by section 1151(d)(2)(B) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1983, see section 1151(k)(5) of Pub. L. 99-514, set out as a note under section 79 of this title.

Amendment by Pub. L. 99-509 effective, except as otherwise provided, with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to section 418(e)(2) of Title 42, The Public Health and Welfare, see section 9002(d) of Pub. L. 99-509, set out as a note under section 418 of Title 42.

Amendment by Pub. L. 99-272 applicable to recoveries made on or after Apr. 7, 1986, and applicable with respect to overpayments made before, on, or after such date, see section 12401(c) of Pub. L. 99-272, set out as a note under section 503 of Title 42.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 491(d)(37) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Amendment by section 531(d)(3) of Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

Section 1073(b) of Pub. L. 98-369 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect on January 1, 1986.

“(2) EXCEPTION FOR CERTAIN STATES.—In the case of any State the legislature of which—

“(A) did not meet in a regular session which begins during 1984 and after the date of the enactment of this Act [July 18, 1984], and

“(B) did not meet in a session which began before the date of the enactment of this Act and remained

in session for at least 25 calendar days after such date of enactment.

the amendment made by subsection (a) shall take effect on January 1, 1987.”

Section 2661(o)(4) of Pub. L. 98-369 provided that the amendment made by that section is effective Jan. 1, 1985.

EFFECTIVE DATE OF 1983 AMENDMENTS

Section 201(b) of Pub. L. 98-135 provided that: “The amendments made by subsection (a) [amending this section] shall apply to remuneration paid after the date of the enactment of this Act [Oct. 24, 1983].”

Amendment by section 324(b)(1)-(4)(B) of Pub. L. 98-21 applicable to remuneration paid after Dec. 31, 1984, except for certain employer contributions made during 1984 under a qualified cash or deferred arrangement, and except in the case of an agreement with certain nonqualified deferred compensation plans in existence on Mar. 24, 1983, see section 324(d) of Pub. L. 98-21 set out as a note under section 3121 of this title.

Amendment by section 327(c)(1)-(3) of Pub. L. 98-21 applicable to remuneration paid after Dec. 31, 1984, see section 327(d)(3) of Pub. L. 98-21, as amended, set out as a note under section 3121 of this title.

Amendment by section 327(c)(4) of Pub. L. 98-21 applicable to remuneration (other than amounts excluded under 26 U.S.C. 119) paid after Mar. 4, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid, see section 327(d)(2) of Pub. L. 98-21, as amended, set out as a note under section 3121 of this title.

Amendment by section 328(c) of Pub. L. 98-21 applicable to remuneration paid after Dec. 31, 1984, see section 328(d)(2) of Pub. L. 98-21, set out as a note under section 3121 of this title.

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENTS

Amendment by section 271(a) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1982, see section 271(d)(1) of Pub. L. 97-248, as amended, set out as a note under section 3301 of this title.

Section 276(a)(2) of Pub. L. 97-248 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to services performed after the date of the enactment of this Act [Sept. 3, 1982].”

Section 276(b)(3) of Pub. L. 97-248 provided that: “The amendments made by this subsection [amending this section] shall apply to remuneration paid after December 31, 1982, and before January 1, 1984.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 124(e)(2)(A) of Pub. L. 97-34 applicable to remuneration paid after Dec. 31, 1981, see section 124(f) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 21 of this title.

Section 822(b) of Pub. L. 97-34, as amended by Pub. L. 97-362, title II, §203, Oct. 25, 1982, 96 Stat. 1733; Pub. L. 98-369, div. A, title X, §1074, July 18, 1984, 98 Stat. 1053; Pub. L. 99-272, title XIII, §13303(c)(1), Apr. 7, 1986, 100 Stat. 327, provided that: “The amendments made by subsection (a) [amending this section] shall apply to remuneration paid after December 31, 1980.”

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-499, see section 1141(c) of Pub. L. 96-499, set out as a note under section 3121 of this title.

Amendment by Pub. L. 96-222 applicable to payments made on or after Jan. 1, 1979, see section 101(b)(1)(E) of Pub. L. 96-222, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c) of Pub. L. 96-84 provided that: “The amendments made by this section [amending this sec-

tion] shall apply to remuneration paid after December 31, 1979, for services performed after such date.”

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 applicable with respect to taxable years beginning after Dec. 31, 1978, see section 164(d) of Pub. L. 95-600, set out as an Effective Date note under section 127 of this title.

Amendment by Pub. L. 95-472 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 3(d) of Pub. L. 95-472, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to wages paid after Dec. 31, 1978, see section 314(c) of Pub. L. 95-216, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 111(c) of Pub. L. 95-566 provided that: “The amendments made by this section [amending this section] shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.”

Section 112(b) of Pub. L. 94-566 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.”

Section 113(b) of Pub. L. 94-566 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.”

Section 114(c) of Pub. L. 94-566 provided that: “The amendments made by this section [amending this section and section 6157 of this title] shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.”

Amendment by section 116(b) of Pub. L. 94-566 applicable with respect to remuneration paid after Dec. 31 of the year in which the Secretary of Labor approves for the first time an unemployment compensation law submitted to him by the Virgin Islands for approval, for services performed after such Dec. 31, see section 116(f)(2) of Pub. L. 94-566, set out as a note under section 3304 of this title.

Section 211(d)(1) of Pub. L. 94-566 provided that: “The amendment made by subsection (a) [amending this section] shall apply to remuneration paid after December 31, 1977.”

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(c)(1) of Pub. L. 91-373 provided that: “The amendments made by subsections (a) and (b)(1) [amending this section and section 6157 of this title] shall apply with respect to calendar years beginning after December 31, 1971.”

Section 102(c) of Pub. L. 91-373 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to remuneration paid after December 31, 1971, for services performed after such date.”

Section 103(b) of Pub. L. 91-373 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to remuneration paid after December 31, 1971, for services performed after such date.”

Section 105(c) of Pub. L. 91-373 provided that: “The amendments made by this section [amending this section] shall apply with respect to service performed after December 31, 1971.”

Section 106(b) of Pub. L. 91-373 provided that: “Subsection (a) [amending this section] shall apply with respect to remuneration paid after December 31, 1969.”

Section 302 of Pub. L. 91-373 provided that the amendment made by that section is effective with respect to remuneration paid after Dec. 31, 1971.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable with respect to remuneration paid after Jan. 2, 1968, see section 504(d) of Pub. L. 90-248, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-650 applicable with respect to remuneration paid on or after first day of first calendar month which begins more than ten days after Oct. 13, 1964, see section 4(d) of Pub. L. 88-650, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-256 applicable with respect to service performed after Dec. 31, 1961, see section 110(h)(3) of Pub. L. 87-256, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by sections 531(c) and 532 to 534 of Pub. L. 86-778 applicable with respect to remuneration paid after 1961 for services performed after 1961, see section 535 of Pub. L. 86-778, set out as a note under section 3305 of this title.

Section 543(a) of Pub. L. 86-778 provided that the amendment made by that section is effective with respect to remuneration paid after Dec. 31, 1960, for services performed after such date.

Amendment by Pub. L. 86-624 effective on Aug. 21, 1959, see section 18(k) of Pub. L. 86-624, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective Jan. 3, 1959, see section 22(i) of Pub. L. 86-70, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 1 of act Sept. 1, 1954, provided that the amendment made by that section is effective with respect to services performed after Dec. 31, 1955.

Section 4(c) of act Sept. 1, 1954, provided that the amendment made by that section is effective with respect to services performed after Dec. 31, 1954.

NO INFERENCE TO BE DRAWN FROM AMENDMENT BY
PUB. L. 108-121

No inference to be drawn from amendment to subsec. (b)(13) of this section by section 106 of Pub. L. 108-121 with respect to tax treatment of any amounts under program described in section 134(b)(4) of this title for any taxable year beginning before Jan. 1, 2003, see section 106(d) of Pub. L. 108-121, set out as a note under section 134 of this title.

REPORTING REQUIREMENTS

Section 507(c), (d) of Pub. L. 103-182 provided that:

“(c) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary of Labor under this section [amending this section, section 3304 of this title, and section 503 of Title 42, The Public Health and Welfare, and enacting provisions set out above] shall report annually to the Secretary on the number of individuals who participate in the self-employment assistance program, the number of indi-

viduals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

“(d) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act [Dec. 8, 1993], the Secretary of Labor shall submit a report to the Congress with respect to the operation of the program authorized under this section. Such report shall be based on the reports received from the States pursuant to subsection (c) and include such other information as the Secretary of Labor determines is appropriate.”

EXCLUSION FROM WAGES AND COMPENSATION OF RE-
FUNDS REQUIRED FROM EMPLOYERS TO COMPENSATE
FOR DUPLICATION OF MEDICARE BENEFITS BY HEALTH
CARE BENEFITS PROVIDED BY EMPLOYERS

For purposes of this chapter, the term “wages” shall not include the amount of any refund required under section 421 of Pub. L. 100-360, 42 U.S.C. 1395b note, see section 10202 of Pub. L. 101-239, set out as a note under section 1395b of Title 42, The Public Health and Welfare.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION
1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX
TO CERTAIN SERVICES PERFORMED FOR CERTAIN IN-
DIAN TRIBAL GOVERNMENTS

Section 1705 of Pub. L. 99-514 provided that:

“(a) IN GENERAL.—For purposes of the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service—

“(1) which is performed—

“(A) before, on, or after the date of the enactment of this Act [Oct. 22, 1986], but before January 1, 1988, and

“(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program, and
 “(2) with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid.

“(b) DEFINITION.—For purposes of this section, the term ‘qualified Indian tribal government’ means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986.”

REMUNERATION PAID AFTER SEPT. 30, 1985, TO FULL-TIME STUDENTS EMPLOYED BY SUMMER CAMPS

Section 13303(b) of Pub. L. 99-272 provided that: “Notwithstanding paragraph (3) of section 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982 [see Effective Date of 1982 Amendments note above], the amendments made by paragraphs (1) and (2) of such section 276(b) [amending this section] shall also apply to remuneration paid after September 19, 1985.”

ADMINISTRATION OF PROVISIONS COVERING PAYMENTS TO EMPLOYEES ON ACCOUNT OF SICKNESS OR ACCIDENT DISABILITY

Section 324(b)(4)(C) of Pub. L. 98-21 provided that: “Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled ‘An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act’ (Public Law 97-123), approved December 29, 1981 [set out as notes under section 3121 of this title], shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).”

APPLICABILITY TO FEDERAL LAND BANKS, FEDERAL INTERMEDIATE CREDIT BANKS, AND BANKS FOR COOPERATIVES

Applicability of subsec. (c)(6) of this section to Federal land banks, Federal intermediate credit banks, and banks for cooperatives, see section 531(g) of Pub. L. 86-778, set out as a note under section 3305 of this title.

§ 3307. Deductions as constructive payments

Whenever under this chapter or any act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(Aug. 16, 1954, ch. 736, 68A Stat. 454.)

§ 3308. Instrumentalities of the United States

Notwithstanding any other provision of law (whether enacted before or after the enactment of this section) which grants to any instrumentality of the United States an exemption from taxation, such instrumentality shall not be exempt from the tax imposed by section 3301 unless such other provision of law grants a specific exemption, by reference to section 3301 (or the corresponding section of prior law), from the tax imposed by such section.

(Added Pub. L. 86-778, title V, § 531(d)(1), Sept. 13, 1960, 74 Stat. 983.)

REFERENCES IN TEXT

Enacted before or after the enactment of this section, referred to in text, means enacted before or after Sept. 13, 1960, the date of approval of Pub. L. 86-778.

PRIOR PROVISIONS

A prior section 3309 was renumbered section 3311 of this title.

EFFECTIVE DATE

Section applicable with respect to remuneration paid after 1961 for services performed after 1961, see section 535 of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 3305 of this title.

APPLICABILITY TO FEDERAL LAND BANKS, FEDERAL INTERMEDIATE CREDIT BANKS, AND BANKS FOR COOPERATIVES

Applicability of this section to Federal land banks, Federal intermediate credit banks, and banks for cooperatives, see section 531(g) of Pub. L. 86-778, set out as a note under section 3305 of this title.

§ 3309. State law coverage of services performed for nonprofit organizations or governmental entities

(a) State law requirements

For purposes of section 3304(a)(6)—

(1) except as otherwise provided in subsections (b) and (c), the services to which this paragraph applies are—

(A) service excluded from the term “employment” solely by reason of paragraph (8) of section 3306(c), and

(B) service excluded from the term “employment” solely by reason of paragraph (7) of section 3306(c); and

(2) the State law shall provide that a governmental entity, including an Indian tribe, or any other organization (or group of governmental entities or other organizations) which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1) applies may elect, for such minimum period and at such time as may be provided by State law, to pay (in lieu of such contributions) into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to such service. The State law may provide safeguards to ensure that governmental entities or other organizations so electing will make the payments required under such elections.

(b) Section not to apply to certain service

This section shall not apply to service performed—

(1) in the employ of (A) a church or convention or association of churches, (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches, or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a);

(2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c),