

§ 6205. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Underpayments

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 86-778, title I, §103(r)(1), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89-97, title III, §317(d), July 30, 1965, 79 Stat. 389; Pub. L. 94-455, title XIX, §1906(a)(13), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99-272, title XIII, §13205(a)(2)(D), Apr. 7, 1986, 100 Stat. 315.)

AMENDMENTS

1986—Subsec. (a)(5). Pub. L. 99-272 added par. (5).

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(4). Pub. L. 94-455, §1906(a)(13), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them” after “owned thereby, the”.

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1965—Subsec. (a)(4). Pub. L. 89-97 added par. (4).

1960—Subsec. (a)(3). Pub. L. 86-778 added par. (3).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-97 applicable with respect to services performed after quarter ending Sept. 30, 1965, and after quarter in which Secretary of the Treasury receives a certification from Commissioners of District of Columbia expressing their desire to have insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to officers and employees coming under provisions of such amendments, see section 317(g) of Pub. L. 89-97, set out as a note under section 410 of Title 42.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of Title 42.

§ 6206. Special rules applicable to excessive claims under certain sections

Any portion of a refund made under section 6416(a)(4) and any portion of a payment made

under section 6420, 6421, or 6427 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 (with respect to refunds under section 6416(a)(4) and payments under sections 6420 and 6421), or 4041 or 4081 (with respect to payments under section 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6416(a)(4), 6420, 6421, or 6427, as the case may be. (Added Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title II, §208(d)(1), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(2)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(3), May 21, 1970, 84 Stat. 248; Pub. L. 97-424, title V, §515(b)(3)(A), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 100-203, title X, §10502(d)(5), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 103-66, title XIII, §13242(d)(14), Aug. 10, 1993, 107 Stat. 524; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613; Pub. L. 109-59, title XI, §11163(d)(1), Aug. 10, 2005, 119 Stat. 1974.)

PRIOR PROVISIONS

A prior section 6206 was renumbered 6207 of this title.

AMENDMENTS

2005—Pub. L. 109-59 substituted “certain sections” for “sections 6420, 6421, and 6427” in section catchline, in first sentence substituted “Any portion of a refund made under section 6416(a)(4) and any portion” for “Any portion” and “refunds under section 6416(a)(4) and payments under sections 6420” for “payments under sections 6420”, and in second sentence substituted “section 6416(a)(4), 6420” for “section 6420”.

2004—Pub. L. 108-357 substituted “or 4081” for “, 4081, or 4091”.

1993—Pub. L. 103-66 substituted “4041, 4081, or 4091” for “4041 or 4091”.

1987—Pub. L. 100-203 substituted “or 4041 or 4091” for “or 4041”.

1983—Pub. L. 97-424 struck out reference to section 6424 in section catchline, and in text struck out “4091 (with respect to payments under section 6424),” after “6421,”, and “6424,” wherever appearing.

1970—Pub. L. 91-258 inserted reference to section 6427 in section catchline, inserted reference to section 6427 in first and second sentences, and substituted “by section 4081 (with respect to payments under sections 6420 and 6421), 4091 (with respect to payments under section 6424), or 4041 (with respect to payments under section 6427)” for “by section 4081 (or, in the case of lubricating oil, by section 4091)”, in first sentence, respectively.

1965—Pub. L. 89-44 struck out “6420 and 6421” wherever appearing in section catchline and text and substituted therefor “6420, 6421, and 6424” and inserted “(or, in the case of lubricating oil, by section 4091)” after “4081” in text.

1956—Act June 29, 1956, inserted reference to excessive claims under section 6421 in section catchline and text.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 6207. Cross references

(1) For prohibition of suits to restrain assessment of any tax, see section 7421.

(2) For prohibition of assessment of taxes against insolvent banks, see section 7507.

(3) For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.

(4) For assessment with respect to taxes required to be paid by chapter 52, see section 5703.

(5) For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006(c).

(6) For period of limitation upon assessment, see chapter 66.

(Aug. 16, 1954, ch. 736, 68A Stat. 769, §6206; renumbered §6207, Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended Pub. L. 85-859, title II, §204(2), (3), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94-455, title XIX, §1906(a)(14), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Par. (7). Pub. L. 94-455 struck out par. (7) relating to cross reference for assessment under the provisions of the Tariff Act of 1930.

1958—Par. (4). Pub. L. 85-859, §204(2), substituted “with respect to taxes required to be paid by chapter 52, see section 5703” for “in case of sale or removal of tobacco, snuff, cigars, and cigarettes without the use of the proper stamps, see section 5703(d)”.

Pars. (6) to (9). Pub. L. 85-859, §204(3), redesignated pars. (8) and (9) as (6) and (7), respectively, and struck out former pars. (6) and (7) which contained cross references relating to assessments in case of certain spirits subject to excessive leakage and to assessment of deficiencies in production of distilled spirits.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.