

section 108(c) of Pub. L. 90-248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 317(c)(1), (2) of Pub. L. 89-97 applicable with respect to services performed after quarter ending September 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 section 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.

Amendment by section 320(b)(4) of Pub. L. 89-97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of this title.

#### EFFECTIVE DATE

Section 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 (42 U.S.C. 401 et seq.) 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 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 an Effective Date of 1960 Amendment note under section 402 of Title 42, The Public Health and Welfare.

### § 3126. Return and payment by governmental employer

If the employer is a State or political subdivision thereof, or an agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages under section 3101 and the amount of the tax imposed by section 3111 may be made by any officer or employee of such State or political subdivision or such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

(Added Pub. L. 99-509, title IX, § 9002(a)(1), Oct. 21, 1986, 100 Stat. 1970.)

#### PRIOR PROVISIONS

A prior section 3126 was renumbered section 3128 of this title.

#### EFFECTIVE DATE

Section, except as otherwise provided, effective 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 an Effective Date of 1986 Amendment note under section 418 of Title 42.

### § 3127. Exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs

#### (a) In general

Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

(1) an employer (or, if the employer is a partnership, each partner therein) is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

(2) an employee of such employer who is also a member of such a religious sect or division and an adherent of its established tenets or teachings has filed and had approved under subsection (b) an identical application for exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to each of the employees thereof who meets the requirements of paragraph (2) and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

#### (b) Approval of application

An application for exemption filed by an employer (or a partner) under subsection (a)(1) or by an employee under subsection (a)(2) shall be approved only if—

(1) such application contains or is accompanied by the evidence described in section 1402(g)(1)(A) and a waiver described in section 1402(g)(1)(B),

(2) the Commissioner of Social Security makes the findings (with respect to such sect or division) described in section 1402(g)(1)(C), (D), and (E), and

(3) no benefit or other payment referred to in section 1402(g)(1)(B) became payable (or, but for section 203 or 222(b)<sup>1</sup> of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

#### (c) Effective period of exemption

An exemption granted under this section to any employer with respect to wages paid to any of the employees thereof, or granted to any such employee, shall apply with respect to wages paid by such employer during the period—

(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer (or, if the employer is a partnership, each partner therein) or employee meets the applicable requirements specified in subsections (a) and (b), and

(2) ending with the last day of the calendar quarter preceding the first calendar quarter

<sup>1</sup> See References in Text note below.

thereafter in which (A) such employer (or, if the employer is a partnership, any partner therein) or the employee involved does not meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer (or, if the employer is a partnership, any partner therein) or employee is a member is found by the Commissioner of Social Security to have ceased to meet the requirements of subsection (b)(2).

(Added Pub. L. 100-647, title VIII, §8007(a)(1), Nov. 10, 1988, 102 Stat. 3781; amended Pub. L. 101-239, title X, §10204(b)(1), Dec. 19, 1989, 103 Stat. 2474; Pub. L. 103-296, title I, §108(h)(3), Aug. 15, 1994, 108 Stat. 1487.)

#### REFERENCES IN TEXT

Sections 203 and 222(b) of the Social Security Act, referred to in subsec. (b)(3), are classified to sections 403 and 422(b), respectively, of Title 42, The Public Health and Welfare. Section 222(b) was repealed by Pub. L. 106-170, title I, §101(b)(1)(C), Dec. 17, 1999, 113 Stat. 1873.

#### PRIOR PROVISIONS

A prior section 3127 was renumbered section 3128 of this title.

#### AMENDMENTS

1994—Subsecs. (b)(2), (c)(2). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1989—Subsec. (a). Pub. L. 101-239, §10204(b)(1)(B), substituted “the employees thereof” for “his employees” in concluding provisions.

Subsec. (a)(1). Pub. L. 101-239, §10204(b)(1)(A), inserted “(or, if the employer is a partnership, each partner therein)” after “an employer”.

Subsec. (b). Pub. L. 101-239, §10204(b)(1)(C), inserted “(or a partner)” after “an employer” in introductory provisions.

Subsec. (c). Pub. L. 101-239, §10204(b)(1)(D), substituted “the employees thereof” for “his employees” in introductory provisions.

Subsec. (c)(1). Pub. L. 101-239, §10204(b)(1)(E), inserted “(or, if the employer is a partnership, each partner therein)”.

Subsec. (c)(2). Pub. L. 101-239, §10204(b)(1)(F), substituted “such employer (or, if the employer is a partnership, any partner therein) or the employee involved does not meet” for “such employer or the employee involved ceases to meet” in cl. (A) and inserted “(or, if the employer is a partnership, any partner therein)” after “such employer” in cl. (B).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title X, §10204(b)(2), Dec. 19, 1989, 103 Stat. 2474, provided that: “The amendments made by this subsection [amending this section] shall be effective as if they were included in the amendments made by section 8007(a)(1) of the Technical and Miscellaneous Revenue Act of 1988 (102 Stat. 3781) [Pub. L. 100-647].”

#### EFFECTIVE DATE

Section applicable to wages paid after Dec. 31, 1988, see section 8007(d) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 1402 of this title.

### § 3128. Short title

This chapter may be cited as the “Federal Insurance Contributions Act.”

(Aug. 16, 1954, ch. 736, 68A Stat. 429, §3125; renumbered §3126, Pub. L. 86-778, title I, §103(q)(1), Sept. 13, 1960, 74 Stat. 939; renumbered §3127, Pub. L. 99-509, title IX, §9002(a)(1), Oct. 21, 1986, 100 Stat. 1970; renumbered §3128, Pub. L. 100-647, title VIII, §8007(a)(1), Nov. 10, 1988, 102 Stat. 3781.)

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509, except as otherwise provided, effective 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.

## CHAPTER 22—RAILROAD RETIREMENT TAX ACT

| Subchapter                               | Sec. <sup>1</sup> |
|--|-------------------|
| A. Tax on employees .....                | 3201              |
| B. Tax on employee representatives ..... | 3211              |
| C. Tax on employers .....                | 3221              |
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| E. Tier 2 tax rate determination. ....   | 3241              |

#### AMENDMENTS

2001—Pub. L. 107-90, title II, §204(e)(5), Dec. 21, 2001, 115 Stat. 893, added item for subchapter E.

### Subchapter A—Tax on Employees

| Sec.  |                                     |
|-------|-------------------------------------|
| 3201. | Rate of tax.                        |
| 3202. | Deduction of tax from compensation. |

### § 3201. Rate of tax

#### (a) Tier 1 tax

In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee. For purposes of the preceding sentence, the term “applicable percentage” means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year.

#### (b) Tier 2 tax

##### (1) In general

In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

##### (2) Applicable percentage

For purposes of paragraph (1), the term “applicable percentage” means—

(A) 4.90 percent in the case of compensation received during 2002 or 2003, and

(B) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.

#### (c) Cross reference

**For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).**

<sup>1</sup> Section numbers editorially supplied.