

(b) Tax rate schedule

Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

(c) Definitions related to determination of rates of tax

(1) Average account benefits ratio

For purposes of this section, the term “average account benefits ratio” means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

(2) Account benefits ratio

For purposes of this section, the term “account benefits ratio” means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

(d) Notice

No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.

(Added Pub. L. 107-90, title II, §204(d), Dec. 21, 2001, 115 Stat. 892.)

EFFECTIVE DATE

Subchapter applicable to calendar years beginning after Dec. 31, 2001, see section 204(f) of Pub. L. 107-90, set out as an Effective and Termination Dates of 2001 Amendments note under section 24 of this title.

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

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AMENDMENTS

1976—Pub. L. 94-566, title I, §115(c)(4), Oct. 20, 1976, 90 Stat. 2671, substituted “services performed for nonprofit organizations or governmental entities” for “certain services performed for nonprofit organizations and for State hospitals and institutions of higher education” in item 3309.

1970—Pub. L. 91-373, title I, §§104(b)(2), 131(b)(3), Aug. 10, 1970, 84 Stat. 699, 705, added items 3309 and 3310 and redesignated former item 3309 as 3311.

1960—Pub. L. 86-778, title V, §531(d)(2), Sept. 13, 1960, 74 Stat. 984, added item 3308 and redesignated former item 3308 as 3309.

§ 3301. Rate of tax

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

(1) 6.2 percent in the case of calendar years 1988 through 2010 and the first 6 months of calendar year 2011; or

(2) 6.0 percent in the case of the remainder of calendar year 2011 and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year (or portion of the calendar year) with respect to employment (as defined in section 3306(c)).

(Aug. 16, 1954, ch. 736, 68A Stat. 439; Pub. L. 86-778, title V, §523(a), Sept. 13, 1960, 74 Stat. 980; Pub. L. 87-6, §14(a), Mar. 24, 1961, 75 Stat. 16; Pub. L. 88-31, §2(a), May 29, 1963, 77 Stat. 51; Pub. L. 91-373, title III, §301(a), Aug. 10, 1970, 84 Stat. 713; Pub. L. 92-329, §2(a), June 30, 1972, 86 Stat. 398; Pub. L. 94-455, title XIX, §1903(a)(11), Oct. 4, 1976, 90 Stat. 1808; Pub. L. 94-566, title II, §211(b), Oct. 20, 1976, 90 Stat. 2676; Pub. L. 97-248, title II, §271(b)(1), (c)(1), Sept. 3, 1982, 96 Stat. 554, 555; Pub. L. 99-514, title XVIII, §1899A(42), Oct. 22, 1986, 100 Stat. 2960; Pub. L. 100-203, title IX, §9153(a), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 101-508, title XI, §11333(a), Nov. 5, 1990, 104 Stat. 1388-470; Pub. L. 102-164, title IV, §402, Nov. 15, 1991, 105 Stat. 1061; Pub. L. 103-66, title XIII, §13751, Aug. 10, 1993, 107 Stat. 664; Pub. L. 105-34, title X, §1035, Aug. 5, 1997, 111 Stat. 937; Pub. L. 110-140, title XV, §1501(a), Dec. 19, 2007, 121 Stat. 1800; Pub. L. 110-343, div. B, title IV, §404(a), Oct. 3, 2008, 122 Stat. 3860; Pub. L. 111-92, §10(a), Nov. 6, 2009, 123 Stat. 2988.)

AMENDMENTS

2009—Pub. L. 111-92 inserted “(or portion of the calendar year)” after “during the calendar year” in concluding provisions and substituted “through 2010 and the first 6 months of calendar year 2011” for “through 2009” in par. (1) and “the remainder of calendar year 2011” for “calendar year 2010” in par. (2).

2008—Par. (1). Pub. L. 110-343, §404(a)(1), substituted “through 2009” for “through 2008”.

Par. (2). Pub. L. 110-343, §404(a)(2), substituted “calendar year 2010” for “calendar year 2009”.

2007—Par. (1). Pub. L. 110-140, §1501(a)(1), substituted “2008” for “2007”.

Par. (2). Pub. L. 110-140, §1501(a)(2), substituted “2009” for “2008”.

1997—Par. (1). Pub. L. 105-34, §1035(1), substituted “2007” for “1998”.

Par. (2). Pub. L. 105-34, §1035(2), substituted “2008” for “1999”.

1993—Par. (1). Pub. L. 103-66, §13751(1), substituted “1998” for “1996”.

Par. (2). Pub. L. 103-66, §13751(2), substituted “1999” for “1997”.

1991—Par. (1). Pub. L. 102-164, §402(1), substituted “1996” for “1995”.

Par. (2). Pub. L. 102-164, §402(2), substituted “1997” for “1996”.

1990—Par. (1). Pub. L. 101-508, §11333(a)(1), substituted “1988 through 1995” for “1988, 1989, and 1990”.

Par. (2). Pub. L. 101-508, §11333(a)(2), substituted “1996” for “1991”.

1987—Pars. (1), (2). Pub. L. 100-203 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) 6.2 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployment compensation account (established by section 905(a) of the Social Security Act); or

“(2) 6.0 percent, in the case of such first calendar year and each calendar year thereafter;”.

1986—Par. (1). Pub. L. 99-514 substituted “unemployment” for “unemployed”.

1982—Par. (1). Pub. L. 97-248, §271(c)(1)(A), substituted “6.2 percent” for “3.5 percent”.

Pub. L. 97-248, §271(b)(1), substituted “3.5 percent” for “3.4 percent”.

Par. (2). Pub. L. 97-248, §271(c)(1)(B), substituted “6.0 percent” for “3.2 percent”.

1976—Pub. L. 94-566 substituted provisions imposing an excise tax equal to 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act), or 3.2 percent, in the case of such first calendar year and each calendar year thereafter, of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)), for provisions imposing an excise tax for the calendar year 1970 and each calendar year thereafter, with respect to having individuals in his employ, equal to 3.2 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)) and provisions that, in the case of wages paid during the calendar year 1973, the rate of such tax should be 3.28 percent in lieu of 3.2 percent.

Pub. L. 94-455 substituted “each calendar year” for “the calendar year 1970 and each calendar year thereafter” and struck out provisions relating to the rate of tax in the case of wages paid during the calendar year 1973.

1972—Pub. L. 92-329 inserted provisions setting forth the rate of tax in the case of wages paid during the calendar year 1973.

1970—Pub. L. 91-373 increased the rate from 3.1 percent to 3.2 percent and struck out provisions setting special rates for wages paid during 1962 and 1963.

1963—Pub. L. 88-31 reduced the tax rate for the year 1963 from 3.5 percent to 3.35 percent.

1961—Pub. L. 87-6 provided for a tax rate of 3.5 percent for calendar years 1962 and 1963.

1960—Pub. L. 86-778 substituted “1961” for “1955” and “3.1 percent” for “3 percent”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §10(b), Nov. 6, 2009, 123 Stat. 2989, provided that: “The amendments made by this section

[amending this section] shall apply to wages paid after December 31, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, §404(b), Oct. 3, 2008, 122 Stat. 3860, provided that: “The amendments made by this section [amending this section] shall apply to wages paid after December 31, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-140, title XV, §1501(b), Dec. 19, 2007, 121 Stat. 1800, provided that: “The amendments made by this section [amending this section] shall apply to wages paid after December 31, 2007.”

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11333(b), Nov. 5, 1990, 104 Stat. 1388-470, provided that: “The amendments made by this section [amending this section] shall apply to wages paid after December 31, 1990.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9153(b), Dec. 22, 1987, 101 Stat. 1330-326, provided that: “The amendment made by subsection (a) [amending this section] shall apply to wages paid on or after January 1, 1988.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title II, §271(d)(1), (2), formerly §271(b)(1), (2), Sept. 3, 1982, 96 Stat. 555, as redesignated by Pub. L. 98-601, §1(a), Oct. 30, 1984, 98 Stat. 3147, provided that:

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section, sections 3306 and 6157 of this title, and sections 1101 and 1105 of Title 42, The Public Health and Welfare] shall apply to remuneration paid after December 31, 1982.

“(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section, sections 3302 and 6157 of this title, and section 1101 of Title 42] shall apply to remuneration paid after December 31, 1984.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-566, title II, §211(d)(2), Oct. 20, 1976, 90 Stat. 2677, provided that: “The amendment made by subsection (b) [amending this section] shall apply to remuneration paid after December 31, 1976.”

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-373, title III, §301(a), Aug. 10, 1970, 84 Stat. 713, provided that the amendment made by that section is effective with respect to remuneration paid after Dec. 31, 1969.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-778, title V, §523(c), Sept. 13, 1960, 74 Stat. 982, provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to the calendar year 1961 and calendar years thereafter.”

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.

§ 3302. Credits against tax

(a) Contributions to State unemployment funds

(1) The taxpayer may, to the extent provided in this subsection and subsection (c), credit