

Section 402(g)(3) of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), is classified to section 402(g)(3) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 4318 was renumbered section 7618 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-275 substituted “services, such payment period” for “services,” in last sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-275 effective Oct. 13, 1994, see section 313 of Pub. L. 104-275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that an employee pension benefit plan not in compliance with this section or section 8(h)(1) of Pub. L. 103-353 on Oct. 13, 1994, has two years to come into compliance, see section 8 of Pub. L. 103-353, set out as a note under section 4301 of this title.

§ 4319. Employment and reemployment rights in foreign countries

(a) **LIABILITY OF CONTROLLING UNITED STATES EMPLOYER OF FOREIGN ENTITY.**—If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by such employer.

(b) **INAPPLICABILITY TO FOREIGN EMPLOYER.**—This subchapter does not apply to foreign operations of an employer that is a foreign person not controlled by an United States employer.

(c) **DETERMINATION OF CONTROLLING EMPLOYER.**—For the purpose of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

(d) **EXEMPTION.**—Notwithstanding any other provision of this subchapter, an employer, or an entity controlled by an employer, shall be exempt from compliance with any of sections 4311 through 4318 of this title with respect to an employee in a workplace in a foreign country, if compliance with that section would cause such employer, or such entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.

(Added Pub. L. 105-368, title II, §212(b)(1), Nov. 11, 1998, 112 Stat. 3331.)

EFFECTIVE DATE

Section applicable only with respect to causes of action arising after Nov. 11, 1998, see section 212(c) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 4303 of this title.

SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers. (Added Pub. L. 103-353, §2(a), Oct. 13, 1994, 108 Stat. 3164.)

PRIOR PROVISIONS

A prior section 4321 was renumbered section 7621 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103-353, set out as a note under section 4301 of this title.

§ 4322. Enforcement of employment or reemployment rights

(a) A person who claims that—

(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

(c)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such com-