

deducted and withheld shall not be collected from the employer, but this paragraph shall in no case relieve the employer from liability for any penalties or additions to tax otherwise applicable in respect of such failure to deduct and withhold.

(Aug. 16, 1954, ch. 736, 68A Stat. 415; Sept. 1, 1954, ch. 1206, title II, §205A, 68 Stat. 1093; Aug. 1, 1956, ch. 836, title II, §201(h)(3), 70 Stat. 841; Pub. L. 89-97, title III, §313(c)(1), (2), July 30, 1965, 79 Stat. 382, 383; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-216, title III, §355(a), (b), Dec. 20, 1977, 91 Stat. 1555; Pub. L. 101-508, title V, §5124(a), Nov. 5, 1990, 104 Stat. 1388-284; Pub. L. 103-296, title III, §319(a)(3), Aug. 15, 1994, 108 Stat. 1534; Pub. L. 103-387, §2(a)(1)(D), Oct. 22, 1994, 108 Stat. 4072; Pub. L. 108-203, title IV, §424(b), Mar. 2, 2004, 118 Stat. 536; Pub. L. 111-148, title IX, §9015(a)(2), Mar. 23, 2010, 124 Stat. 871.)

AMENDMENTS

2010—Subsec. (f). Pub. L. 111-148 added subsec. (f).

2004—Subsec. (a). Pub. L. 108-203 struck out “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis” after “less than \$150”.

1994—Subsec. (a). Pub. L. 103-387 in second sentence substituted “An employer who in any calendar year” for “An employer who in any calendar quarter” and “remuneration paid to the employee by the employer in the calendar year is less than the applicable dollar threshold (as defined in section 3121(x)) for such year” for “remuneration paid to the employee by the employer in the calendar quarter is less than \$50”.

Subsec. (e). Pub. L. 103-296 added subsec. (e).

1990—Subsec. (d). Pub. L. 101-508 added subsec. (d).

1977—Subsec. (a). Pub. L. 95-216, §355(a), substituted “cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable” for “cash remuneration to which paragraph (7)(B) or (C) or (10) of section 3121(a) is applicable” and inserted “and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100;”.

Subsec. (c)(1), (2). Pub. L. 95-216, §355(b)(1), substituted “year” for “quarter” wherever appearing.

Subsec. (c)(3)(A). Pub. L. 95-216, §355(b)(2)(A), substituted “in any calendar year” for “in any quarter of the calendar year”.

Subsec. (c)(3)(B), (C). Pub. L. 95-216, §355(b)(2)(B), substituted “year” for “quarter” wherever appearing.

1976—Subsec. (c)(3). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1965—Subsec. (a). Pub. L. 89-97, §313(c)(2), inserted provisions at end of second sentence allowing a deduction from any wages of an employee of an amount equivalent to the tax on tips when an employer is furnished with a written statement of tips received by an employee.

Subsec. (c). Pub. L. 89-97, §313(c)(1), added subsec. (c).

1956—Subsec. (a). Act Aug. 1, 1956, substituted “\$150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis” for “\$100”.

1954—Subsec. (a). Act Sept. 1, 1954, inserted last sentence permitting in certain instances an employer to deduct employee tax even though payment to employee is less than \$50 for calendar quarter or \$100 for calendar year.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, see section 9015(c) of Pub. L. 111-148, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Pub. L. 103-387, §2(a)(3), Oct. 22, 1994, 108 Stat. 4072, provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section, section 3121 of this title, and sections 409 and 410 of Title 42, The Public Health and Welfare] shall apply to remuneration paid after December 31, 1993.

“(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) [amending section 3121 of this title and section 410 of Title 42] shall apply to services performed after December 31, 1994.”

Amendment by Pub. L. 103-296 applicable with respect to service performed after calendar quarter following calendar quarter in which Aug. 15, 1994, occurs, see section 319(c) of Pub. L. 103-296, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5124(c), Nov. 5, 1990, 104 Stat. 1388-285, provided that: “The amendments made by this section [amending this section and section 3202 of this title] shall apply to coverage provided after December 31, 1990.”

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-216, title III, §355(c), Dec. 20, 1977, 91 Stat. 1555, provided that: “The amendments made by this section [amending this section] shall apply with respect to remuneration paid and to tips received after December 31, 1977.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of this title.

NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT

Pub. L. 103-387, §2(a)(4), Oct. 22, 1994, 108 Stat. 4072, provided that: “Notwithstanding the amendments made by this subsection [amending this section, section 3121 of this title, and sections 409 and 410 of Title 42, The Public Health and Welfare], if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than \$1,000—

“(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

“(B) the employee shall be entitled to credit under section 209 of the Social Security Act [42 U.S.C. 409] with respect to any such wages required to be included on any such return or statement.”

Subchapter B—Tax on Employers

Sec.	
3111.	Rate of tax.
3112.	Instrumentalities of the United States.
[3113.]	Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1903(b), Oct. 4, 1976, 90 Stat. 1810, struck out item 3113 “District of Columbia credit unions”.

1956—Act Aug. 1, 1956, ch. 836, title II, §201(a)(2), 70 Stat. 839, added item 3113.