

notes under this section] or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.”

PENALTIES AND INTEREST NOT ASSESSED FOR FAILURE TO MAKE TIMELY PAYMENT DURING PERIOD JANUARY 1, 1982, TO JUNE 30, 1982, OF TAXES ATTRIBUTABLE TO AMENDMENTS BY PUB. L. 97-123

For provision that no penalties or interest shall be assessed on account of any failure to make timely payment of taxes imposed by this section with respect to payments made for the period Jan. 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to section 3 of Pub. L. 97-123 or the amendments made by that section, see section 3(f) of Pub. L. 97-123, set out as a note under section 3101 of this title.

§ 3212. Determination of compensation

The compensation of an employee representative for the purpose of ascertaining the tax thereon shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in section 3231(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 432.)

Subchapter C—Tax on Employers

Sec.
3221. Rate of tax.

§ 3221. Rate of tax

(a) Tier 1 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of compensation paid during any calendar year by such employer for services rendered to such employer. 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 3111 for the calendar year.

(b) Tier 2 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the percentage determined under section 3241 for any calendar year of the compensation paid during such calendar year by such employer for services rendered to such employer.

(c) Special rate for certain individuals hired in 2010

(1) In general

In the case of compensation paid by a qualified employer during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2010, with respect to having a qualified individual in the employer’s employ for services rendered to such qualified employer, the applicable percentage under subsection (a) shall be equal to the rate of tax in effect under section 3111(b) for the calendar year.

(2) Qualified employer

The term “qualified employer” means any employer other than the United States, any

State, or any political subdivision thereof, or any instrumentality of the foregoing.

(3) Qualified individual

For purposes of this subsection, the term “qualified individual” means any individual who—

(A) begins employment with a qualified employer after February 3, 2010, and before January 1, 2011,

(B) certifies by signed affidavit, under penalties of perjury, that such individual has not been employed for more than 40 hours during the 60-day period ending on the date such individual begins such employment,

(C) is not employed by the qualified employer to replace another employee of such employer unless such other employee separated from employment voluntarily or for cause, and

(D) is not an individual described in section 51(i)(1) (applied by substituting “qualified employer” for “taxpayer” each place it appears).

(4) Election

A qualified employer may elect to have this subsection not apply. Such election shall be made in such manner as the Secretary may require.

(5) Special rule for first calendar quarter of 2010

(A) Nonapplication of exemption during first quarter

Paragraph (1) shall not apply with respect to compensation paid during the first calendar quarter of 2010.

(B) Crediting of first quarter exemption during second quarter

The amount by which the tax imposed under subsection (a) would (but for subparagraph (A)) have been reduced with respect to compensation paid by a qualified employer during the first calendar quarter of 2010 shall be treated as a payment against the tax imposed under subsection (a) with respect to the qualified employer for the second calendar quarter of 2010 which is made on the date that such tax is due.

(d) Cross reference

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

(Aug. 16, 1954, ch. 736, 68A Stat. 433; Aug. 31, 1954, ch. 1164, pt. II, §206(a), 68 Stat. 1040; Pub. L. 86-28, pt. II, §201(d), May 19, 1959, 73 Stat. 29; Pub. L. 88-133, title II, §202, Oct. 5, 1963, 77 Stat. 221; Pub. L. 89-97, title I, §§105(b)(3), 111(c)(3), July 30, 1965, 79 Stat. 335, 342; Pub. L. 89-212, §§4, 5(c), Sept. 29, 1965, 79 Stat. 861, 862; Pub. L. 89-699, title III, §301(c), (e), Oct. 30, 1966, 80 Stat. 1078; Pub. L. 89-700, title III, §§301(iii), (v), (vi), 302, Oct. 30, 1966, 80 Stat. 1088, 1089; Pub. L. 91-215, §5(a), (b)(1), Mar. 17, 1970, 84 Stat. 71; Pub. L. 93-69, title I, §102(d)-(f), July 10, 1973, 87 Stat. 162, 163; Pub. L. 93-445, title V, §501, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-93, title II, §203, Aug. 9, 1975, 89 Stat. 466; Pub. L. 94-455, title XIX, §§1903(a)(9), 1906(b)(13)(G), Oct. 4, 1976, 90 Stat.