

24 of the Internal Revenue Code of 1986 (as in effect before its repeal by subsection (a)), the repeal made by subsection (a) (and the provisions of subsection (b)) shall not apply to the amount so deducted and withheld.

“(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.— Paragraph (1) shall not apply with respect to any payor who elects (at the time and in the manner prescribed by the Secretary of the Treasury or his delegate) to have paragraph (1) not apply.

“(d) ESTIMATED TAX PAYMENTS.—For purposes of determining the amount of any addition to tax under section 6654 of the Internal Revenue Code of 1986 with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of such Code for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, shall be increased by an amount equal to 10 percent of the aggregate amount of payments—

“(1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and

“(2) which (but for the repeal made by subsection (a)) would have been subject to withholding under subchapter B of chapter 24 of such Code (determined without regard to any exemption described in section 3452 of such subchapter B).”

**CHAPTER 25—GENERAL PROVISIONS  
RELATING TO EMPLOYMENT TAXES**

- Sec.
- 3501. Collection and payment of taxes.
- 3502. Nondeductibility of taxes in computing taxable income.
- 3503. Erroneous payments.
- 3504. Acts to be performed by agents.
- 3505. Liability of third parties paying or providing for wages.
- 3506. Individuals providing companion sitting placement services.
- [3507. Repealed.]
- 3508. Treatment of real estate agents and direct sellers.
- 3509. Determination of employer's liability for certain employment taxes.
- 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.
- 3511. Certified professional employer organizations.
- 3512. Treatment of certain persons as employers with respect to motion picture projects.

AMENDMENTS

2015—Pub. L. 114-113, div. Q, title III, §346(b), Dec. 18, 2015, 129 Stat. 3116, added item 3512.

2014—Pub. L. 113-295, div. B, title II, §206(d)(1), Dec. 19, 2014, 128 Stat. 4071, added item 3511.

2010—Pub. L. 111-226, title II, §219(b)(3), Aug. 10, 2010, 124 Stat. 2403, struck out item 3507 “Advance payment of earned income credit”.

1994—Pub. L. 103-387, §2(b)(2), Oct. 22, 1994, 108 Stat. 4074, added item 3510.

1990—Pub. L. 101-508, title XI, §11801(b)(16), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 3510 “Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984”.

1983—Pub. L. 98-67 repealed amendments made by section 307 of Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 98-21, title I, §123(b)(2), Apr. 20, 1983, 97 Stat. 88, added item 3510.

1982—Pub. L. 97-248, title II, §§269(d), 270(b), Sept. 3, 1982, 96 Stat. 553, 554, added items 3508 and 3509.

Pub. L. 97-248, title III, §§307(b)(5), 308(a), Sept. 3, 1982, 96 Stat. 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the caption of chapter 25 is

amended by inserting “AND COLLECTION OF INCOME TAXES AT SOURCE”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1978—Pub. L. 95-600, title I, §105(b)(2), Nov. 6, 1978, 92 Stat. 2776, added item 3507.

1977—Pub. L. 95-171, §10(b), Nov. 12, 1977, 91 Stat. 1356, added item 3506.

1966—Pub. L. 89-719, title I, §105(c), Nov. 2, 1966, 80 Stat. 1139, added item 3505.

**§ 3501. Collection and payment of taxes**

**(a) General rule**

The taxes imposed by this subtitle shall be collected by the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

**(b) Taxes with respect to non-cash fringe benefits**

The taxes imposed by this subtitle with respect to non-cash fringe benefits shall be collected (or paid) by the employer at the time and in the manner prescribed by the Secretary by regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 471; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title V, §531(d)(5), July 18, 1984, 98 Stat. 885.)

AMENDMENTS

1984—Pub. L. 98-369 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

**§ 3502. Nondeductibility of taxes in computing taxable income**

(a) The taxes imposed by section 3101 of chapter 21, and by sections 3201 and 3211 of chapter 22 shall not be allowed as a deduction to the taxpayer in computing taxable income under subtitle A.

(b) The tax deducted and withheld under chapter 24 shall not be allowed as a deduction either to the employer or to the recipient of the income in computing taxable income under subtitle A.

(Aug. 16, 1954, ch. 736, 68A Stat. 471; Pub. L. 97-248, title III, §§305(b), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369.)

AMENDMENTS

1983—Subsecs. (b), (c). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsecs. (b), (c). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended and a new subsec. (c) is added. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of

Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

### § 3503. Erroneous payments

Any tax paid under chapter 21 or 22 by a taxpayer with respect to any period with respect to which he is not liable to tax under such chapter shall be credited against the tax, if any, imposed by such other chapter upon the taxpayer, and the balance, if any, shall be refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 471.)

### § 3504. Acts to be performed by agents

In case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Secretary, under regulations prescribed by him, is authorized to designate such fiduciary, agent, or other person to perform such acts as are required of employers under this title and as the Secretary may specify. Except as may be otherwise prescribed by the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent, or other person so designated but, except as so provided, the employer for whom such fiduciary, agent, or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

(Aug. 16, 1954, ch. 736, 68A Stat. 471; Pub. L. 85-866, title I, §71, Sept. 2, 1958, 72 Stat. 1660; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in three places.

1958—Pub. L. 85-866 substituted “title” for “subtitle” in first sentence.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §71, Sept. 2, 1958, 72 Stat. 1660, provided that the amendment made by that section is effective with respect to remuneration paid after Dec. 31, 1954.

### § 3505. Liability of third parties paying or providing for wages

#### (a) Direct payment by third parties

For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

#### (b) Personal liability where funds are supplied

If a lender, surety, or other person supplies funds to or for the account of an employer for

the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(i)(1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

#### (c) Effect of payment

Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

(Added Pub. L. 89-719, title I, §105(a), Nov. 2, 1966, 80 Stat. 1138.)

#### EFFECTIVE DATE

Section applicable only with respect to wages paid on or after Jan. 1, 1967, see section 114(c)(1) of Pub. L. 89-719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

### § 3506. Individuals providing companion sitting placement services

#### (a) In general

For purposes of this subtitle, a person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

#### (b) Definition

For purposes of this section, the term “sitters” means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

#### (c) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section.

(Added Pub. L. 95-171, §10(a), Nov. 12, 1977, 91 Stat. 1356.)

#### EFFECTIVE DATE

Pub. L. 95-171, §10(c), Nov. 12, 1977, 91 Stat. 1356, provided that: “The amendments made by this section [enacting this section] shall apply to remuneration received after December 31, 1974.”

#### UNEMPLOYMENT COMPENSATION OR SOCIAL SECURITY BENEFITS BASED ON SERVICES PERFORMED BEFORE NOVEMBER 12, 1977, UNAFFECTED

Pub. L. 95-171, §10(d), Nov. 12, 1977, 91 Stat. 1356, provided that: “The amendments made by this section [enacting this section] shall not be construed as affecting (1) any individual’s right to receive unemployment compensation based on services performed before the