

**§ 3512. Treatment of certain persons as employers with respect to motion picture projects**

**(a) In general**

For purposes of sections 3121(a)(1) and 3306(b)(1), remuneration paid to a motion picture project worker by a motion picture project employer during a calendar year shall be treated as remuneration paid with respect to employment of such worker by such employer during the calendar year. The identity of such employer for such purposes shall be determined as set forth in this section and without regard to the usual common law rules applicable in determining the employer-employee relationship.

**(b) Definitions**

For purposes of this section—

**(1) Motion picture project employer**

The term “motion picture project employer” means any person if—

(A) such person (directly or through affiliates)—

(i) is a party to a written contract covering the services of motion picture project workers with respect to motion picture projects in the course of a client’s trade or business,

(ii) is contractually obligated to pay remuneration to the motion picture project workers without regard to payment or reimbursement by any other person,

(iii) controls the payment (within the meaning of section 3401(d)(1)) of remuneration to the motion picture project workers and pays such remuneration from its own account or accounts,

(iv) is a signatory to one or more collective bargaining agreements with a labor organization (as defined in 29 U.S.C. 152(5)) that represents motion picture project workers, and

(v) has treated substantially all motion picture project workers that such person pays as employees and not as independent contractors during such calendar year for purposes of determining employment taxes under this subtitle, and

(B) at least 80 percent of all remuneration (to which section 3121 applies) paid by such person in such calendar year is paid to motion picture project workers.

**(2) Motion picture project worker**

The term “motion picture project worker” means any individual who provides services on motion picture projects for clients who are not affiliated with the motion picture project employer.

**(3) Motion picture project**

The term “motion picture project” means the production of any property described in section 168(f)(3). Such term does not include property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

**(4) Affiliate; affiliated**

A person shall be treated as an affiliate of, or affiliated with, another person if such per-

sons are treated as a single employer under subsection (b) or (c) of section 414.

(Added Pub. L. 114-113, div. Q, title III, §346(a), Dec. 18, 2015, 129 Stat. 3115.)

REFERENCES IN TEXT

29 U.S.C. 152, referred to in subsec. (b)(1)(A)(iv), is section 2 of the National Labor Relations Act, act July 5, 1935, ch. 372, 49 Stat. 450, which is classified to section 152 of Title 29, Labor.

EFFECTIVE DATE

Pub. L. 114-113, div. Q, title III, §346(c), Dec. 18, 2015, 129 Stat. 3116, provided that: “The amendments made by this section [enacting this section and provisions set out as a note under this section] shall apply to remuneration paid after December 31, 2015.”

CONSTRUCTION

Pub. L. 114-113, div. Q, title III, §346(d), Dec. 18, 2015, 129 Stat. 3116, provided that: “Nothing in the amendments made by this section [enacting this section] shall be construed to create any inference on the law before the date of the enactment of this Act [Dec. 18, 2015].”

**Subtitle D—Miscellaneous Excise Taxes**

Chapter	Sec. <sup>1</sup>
31. Retail excise taxes .....	4001
32. Manufacturers excise taxes .....	4061
33. Facilities and services .....	4231
34. Taxes on certain insurance policies .....	4371
35. Taxes on wagering .....	4401
36. Certain other excise taxes .....	4451
[37. Repealed.]	
38. Environmental taxes .....	4611
39. Registration-required obligations .....	4701
40. General provisions relating to occupational taxes .....	4901
41. Public charities .....	4911
42. Private foundations; and certain other tax-exempt organizations .....	4940
43. Qualified pension, etc., plans .....	4971
44. Real estate investment trusts .....	4981
45. Provisions relating to expatriated entities .....	4985
46. Golden parachute payments .....	4999
47. Certain group health plans .....	5000
48. Maintenance of minimum essential coverage .....	5000A
49. Cosmetic services .....	5000B
50. Foreign procurement .....	5000C

AMENDMENTS

2011—Pub. L. 111-347, title III, §301(a)(2), Jan. 2, 2011, 124 Stat. 3666, added item for chapter 50.

2010—Pub. L. 111-148, title X, §10907(c), Mar. 23, 2010, 124 Stat. 1020, added item for chapter 49.

Pub. L. 111-148, title IX, §9017(b), Mar. 23, 2010, 124 Stat. 872, which directed amendment of analysis by adding item for chapter 49, was not executed in view of Pub. L. 111-148, title X, §10907(a), Mar. 23, 2010, 124 Stat. 1020, which provided that the amendments made by section 9017 of Pub. L. 111-148 were deemed null, void, and of no effect.

Pub. L. 111-148, title I, §1501(c), title VI, §6301(e)(2)(B)(ii), Mar. 23, 2010, 124 Stat. 249, 747, added items for chapters 34 and 48 and struck out former item for chapter 34 “Documentary stamp taxes”.

2004—Pub. L. 108-357, title VIII, §802(c)(2), Oct. 22, 2004, 118 Stat. 1568, added item for chapter 45.

1990—Pub. L. 101-508, title XI, §11801(b)(17), Nov. 5, 1990, 104 Stat. 1388-522, struck out item for chapter 37 “Sugar, coconut and palm oil”.

<sup>1</sup> Section numbers editorially supplied.