

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.

§ 3111. Rate of tax**(a) Old-age, survivors, and disability insurance**

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 6.2 percent of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

(b) Hospital insurance

In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 1.45 percent of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(d) Special exemption for certain individuals hired in 2010**(1) In general**

Subsection (a) shall not apply to wages paid by a qualified employer with respect to employment during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2010, of any qualified individual for services performed—

(A) in a trade or business of such qualified employer, or

(B) in the case of a qualified employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

(2) Qualified employer

For purposes of this subsection—

(A) In general

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.

(B) Treatment of employees of post-secondary educational institutions

Notwithstanding subparagraph (A), the term “qualified employer” includes any employer which is a public institution of higher education (as defined in section 101(b) of the Higher Education Act of 1965).

(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 wages 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 wages 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.

(e) Credit for employment of qualified veterans**(1) In general**

If a qualified tax-exempt organization hires a qualified veteran with respect to whom a credit would be allowable under section 38 by reason of section 51 if the organization were not a qualified tax-exempt organization, then there shall be allowed as a credit against the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during the applicable period an amount equal to the credit determined under section 51 (after application of the modifications under paragraph (3)) with respect to wages paid to such qualified veteran during such period.

(2) Overall limitation

The aggregate amount allowed as a credit under this subsection for all qualified veterans for any period with respect to which tax is imposed under subsection (a) shall not exceed the amount of the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during such period.

(3) Modifications

For purposes of paragraph (1), section 51 shall be applied—