

requirements of this section and section 7705, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(h) Regulations

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

(Added Pub. L. 113–295, div. B, title II, §206(a), Dec. 19, 2014, 128 Stat. 4065.)

EFFECTIVE DATE

Section applicable with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after Dec. 19, 2014, see section 206(g)(1) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 3302 of this title.

§ 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 persons 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] 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. ¹
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

¹ Section numbers editorially supplied.

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”.

1989—Pub. L. 101-239, title VI, § 6202(b)(4)(B), title VII, § 7841(d)(4), Dec. 19, 1989, 103 Stat. 2233, 2428, substituted semicolon for comma in item for chapter 42 and struck out “large” after “Certain” in item for chapter 47.

1988—Pub. L. 100-418, title I, § 1941(b)(3)(A), Aug. 23, 1988, 102 Stat. 1324, struck out item for chapter 45 “Windfall profit tax on domestic crude oil”.

1987—Pub. L. 100-203, title X, § 10712(c)(8), Dec. 22, 1987, 101 Stat. 1330-467, substituted “and certain other tax-exempt organizations” for “black lung benefit trusts” in item for chapter 42.

1986—Pub. L. 99-509, title IX, § 9319(d)(2), Oct. 21, 1986, 100 Stat. 2012, added item for chapter 47.

1984—Pub. L. 98-369, div. A, title I, § 67(d)(2), July 18, 1984, 98 Stat. 587, added item for chapter 46.

1983—Pub. L. 97-424, title V, § 512(b)(2)(B), Jan. 6, 1983, 96 Stat. 2177, substituted “Retail excise taxes” for “Special fuels” in item for chapter 31.

1982—Pub. L. 97-248, title III, § 310(b)(4)(B), Sept. 3, 1982, 96 Stat. 598, added item for chapter 39.

1980—Pub. L. 96-510, title II, § 211(b), Dec. 11, 1980, 94 Stat. 2801, added item for chapter 38.

Pub. L. 96-223, § 101(a)(2), Apr. 2, 1980, 94 Stat. 250, added item for chapter 45.

1978—Pub. L. 95-227, § 4(c)(2)(C), Feb. 10, 1978, 92 Stat. 22, inserted “, black lung benefit trusts” after “foundations” in item for chapter 42.

1976—Pub. L. 94-455, title XIII, § 1307(d)(3)(A), title XVI, § 1605(c), title XIX, §§ 1904(b)(7)(E), (10)(G), 1952(n)(6), Oct. 4, 1976, 90 Stat. 1728, 1755, 1815, 1818, 1846, substituted “41. Public charities” for “41. Interest equalization tax” added item for chapter 44 and struck out items for chapters “38. Import taxes” and “39. Regulatory taxes”.

1974—Pub. L. 93-406, title II, § 1016(b)(2), Sept. 2, 1974, 88 Stat. 932, added item for chapter 43.

1969—Pub. L. 91-172, title I, § 101(j)(59), Dec. 30, 1969, 83 Stat. 532, added item for chapter 42.

1964—Pub. L. 88-563, § 2(b), Sept. 2, 1964, 78 Stat. 841, added item for chapter 41.

IMPOSITION OF ANNUAL FEE ON BRANDED PRESCRIPTION PHARMACEUTICAL MANUFACTURERS AND IMPORTERS

Pub. L. 111-148, title IX, § 9008, Mar. 23, 2010, 124 Stat. 859, as amended by Pub. L. 111-152, title I, § 1404(a), Mar. 30, 2010, 124 Stat. 1064, provided that:

“(a) IMPOSITION OF FEE.—

“(1) IN GENERAL.—Each covered entity engaged in the business of manufacturing or importing branded prescription drugs shall pay to the Secretary of the Treasury not later than the annual payment date of each calendar year beginning after 2010 a fee in an amount determined under subsection (b).

“(2) ANNUAL PAYMENT DATE.—For purposes of this section, the term ‘annual payment date’ means with respect to any calendar year the date determined by

the Secretary, but in no event later than September 30 of such calendar year.

“(b) DETERMINATION OF FEE AMOUNT.—

“(1) IN GENERAL.—With respect to each covered entity, the fee under this section for any calendar year shall be equal to an amount that bears the same ratio to the applicable amount as—

“(A) the covered entity’s branded prescription drug sales taken into account during the preceding calendar year, bear to

“(B) the aggregate branded prescription drug sales of all covered entities taken into account during such preceding calendar year.

“(2) SALES TAKEN INTO ACCOUNT.—For purposes of paragraph (1), the branded prescription drug sales taken into account during any calendar year with respect to any covered entity shall be determined in accordance with the following table:

“With respect to a covered entity’s aggregate branded prescription drug sales during the calendar year that are:	The percentage of such sales taken into account is:
Not more than \$5,000,000	0 percent
More than \$5,000,000 but not more than \$125,000,000.	10 percent
More than \$125,000,000 but not more than \$225,000,000.	40 percent
More than \$225,000,000 but not more than \$400,000,000.	75 percent
More than \$400,000,000	100 percent.

“(3) SECRETARIAL DETERMINATION.—The Secretary of the Treasury shall calculate the amount of each covered entity’s fee for any calendar year under paragraph (1). In calculating such amount, the Secretary of the Treasury shall determine such covered entity’s branded prescription drug sales on the basis of reports submitted under subsection (g) and through the use of any other source of information available to the Secretary of the Treasury.

“(4) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in accordance with the following table:

“Calendar year	Applicable amount
2011	\$2,500,000,000
2012	\$2,800,000,000
2013	\$2,800,000,000
2014	\$3,000,000,000
2015	\$3,000,000,000
2016	\$3,000,000,000
2017	\$4,000,000,000
2018	\$4,100,000,000
2019 and thereafter	\$2,800,000,000.

“(c) TRANSFER OF FEES TO MEDICARE PART B TRUST FUND.—There is hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act [42 U.S.C. 1395t] an amount equal to the fees received by the Secretary of the Treasury under subsection (a).

“(d) COVERED ENTITY.—

“(1) IN GENERAL.—For purposes of this section, the term ‘covered entity’ means any manufacturer or importer with gross receipts from branded prescription drug sales.

“(2) CONTROLLED GROUPS.—

“(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as a single covered entity.

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 of such Code to this section, section 1563 of such Code shall be applied without regard to subsection (b)(2)(C) thereof.