

repayment of internal revenue refunds for former provisions defining “employment security administrative expenditures”, now incorporated in subsec. (c)(1)(A), (B), (2)(A) of this section.

Subsecs. (c) to (f). Pub. L. 86-778 added subsecs. (c) to (f).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9154(d), Dec. 22, 1987, 101 Stat. 1330-326, provided that: “The amendments made by this section [amending this section and sections 1102 and 1105 of this title] shall become effective on the date of the enactment of this Act [Dec. 22, 1987].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 271(b)(2)(A) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1982, and amendment by section 271(c)(3)(D) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1984, see section 271(d)(1), (2) of Pub. L. 97-248, as amended, set out as a note under section 3301 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-566, title II, §211(d)(3), Oct. 20, 1976, 90 Stat. 2677, provided that: “The amendments made by subsection (c) [amending this section, section 1105 of this title, and section 6157 of Title 26, Internal Revenue Code] shall take effect on the date of enactment of this Act [Oct. 20, 1976].”

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-373, title III, §303(a), Aug. 10, 1970, 84 Stat. 713, provided that the amendment made by that section is effective with respect to fiscal years after June 30, 1970.

Pub. L. 91-373, title III, §303(c), Aug. 10, 1970, 84 Stat. 715, provided that the amendment made by that section is effective July 1, 1972.

Pub. L. 91-373, title III, §303(d), Aug. 10, 1970, 84 Stat. 715, provided that the amendment made by that section is effective with respect to fiscal years after June 30, 1972.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-53, §4(b), Aug. 7, 1969, 83 Stat. 93, provided that: “The amendments made by section 3 [amending this section] shall take effect upon enactment of this Act [Aug. 7, 1969].”

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEAR 1963

Pub. L. 88-31, §4, May 29, 1963, 77 Stat. 52, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to \$407,148,000.

Pub. L. 87-582, title I, §101, Aug. 14, 1962, 76 Stat. 363, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to \$400,000,000.

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEARS 1961 AND 1962

Pub. L. 87-6, §15, Mar. 24, 1961, 75 Stat. 16, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be avail-

able for the fiscal years ending June 30, 1961 and June 30, 1962, for the purposes specified in subsec. (c)(1)(A), was increased to \$385,000,000 and \$415,000,000, respectively.

§ 1102. Transfers between Federal unemployment account and employment security administration account

(a) Determination of excess; amount transferred

Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year and the entire amount of such excess is not retained in the employment security administration account or transferred to the extended unemployment compensation account as provided in section 1101(f)(3) of this title, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the balance of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

- (1) \$550 million, or
- (2) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to 0.5 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) Unemployment account excesses

The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) shall be transferred to the employment security administration account as of the close of such fiscal year.

(c) Report to Congress

Whenever the Secretary of Labor has reason to believe that in the next fiscal year the employment security administration account will reach the limit provided for such account in section 1101(f)(3)(A) of this title, and the Federal unemployment account will reach the limit provided for such account in subsection (a), and the extended unemployment compensation account will reach the limit provided for such account in section 1105(b)(2) of this title, he shall, after consultation with the Secretary of the Treasury, so report to the Congress with a recommendation for appropriate action by the Congress.

(Aug. 14, 1935, ch. 531, title IX, §902, as added Aug. 5, 1954, ch. 657, §2, 68 Stat. 669; amended Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 974; Pub. L. 91-373, title III, §304(a), (b), Aug. 10, 1970, 84 Stat. 715, 716; Pub. L. 100-203, title IX, §9154(b)(1), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 102-318, title V, §531(b), July 3, 1992, 106 Stat. 316; Pub. L. 105-33, title V, §5402(a), Aug. 5, 1997, 111 Stat. 603.)

PRIOR PROVISIONS

A prior section 1102, act Aug. 14, 1935, ch. 531, title IX, §902, 49 Stat. 639, related to credit against tax. For fur-

ther details, see Prior Law note set out preceding section 1101 of this title.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-33 substituted “0.5 percent” for “0.25 percent”.

1992—Subsec. (a)(2). Pub. L. 102-318 substituted “0.25 percent” for “five-eighths of 1 percent”.

1987—Subsec. (a)(2). Pub. L. 100-203 substituted “five-eighths” for “one-eighth”.

1970—Subsec. (a). Pub. L. 91-373, §304(a), inserted, in provisions preceding par. (1), reference to the retention of the entire amount of the excess in the employment security administration account or the transfer to the extended unemployment compensation account as provided in section 1101(f)(3) of this title and, in par. (2), substituted “one-eighth of 1 percent” for “four-tenths of 1 per centum”.

Subsec. (c). Pub. L. 91-373, §304(b), added subsec. (c). 1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and employment security administration account for former provisions crediting the Federal unemployment account with funds and defining “adjusted balance”.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title V, §5402(b), Aug. 5, 1997, 111 Stat. 603, provided that: “This section [amending this section] and the amendment made by this section—

“(1) shall take effect on October 1, 2001, and

“(2) shall apply to fiscal years beginning on or after that date.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-318, title V, §531(e), July 3, 1992, 106 Stat. 317, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 1110 of this title and amending this section and sections 1101, 1104, and 1105 of this title] shall take effect on the date of the enactment of this Act [July 3, 1992].

“(2) CHANGES IN CEILING AMOUNTS.—The amendments made by subsection[s] (a)(2) and (b) [amending this section and section 1105 of this title] shall apply to fiscal years beginning after September 30, 1993.”

§ 1103. Amounts transferred to State accounts

(a) Determination and certification by Secretary of Labor

(1) If as of the close of any fiscal year after the fiscal year ending June 30, 1972, the amount in the extended unemployment compensation account has reached the limit provided in section 1105(b)(2) of this title and the amount in the Federal unemployment account has reached the limit provided in section 1102(a) of this title and all advances and interest pursuant to section 1105(d) of this title and section 1323 of this title have been repaid, and there remains in the employment security administration account any amount over the amount provided in section 1101(f)(3)(A) of this title, such excess amount, except as provided in subsection (b), shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund.

(2) Each State’s share of the funds to be transferred under this subsection as of any October 1—

(A) shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before such date, and

(B) shall bear the same ratio to the total amount to be so transferred as—

(i) the amount of wages subject to tax under section 3301 of the Internal Revenue Code of 1986 during the preceding calendar year which are determined by the Secretary of Labor to be attributable to the State, bears to

(ii) the total amount of wages subject to such tax during such year.

(b) Transfer of funds where State is ineligible

(1) If the Secretary of Labor finds that on October 1 of any fiscal year—

(A) a State is not eligible for certification under section 503 of this title, or

(B) the law of a State is not approvable under section 3304 of the Federal Unemployment Tax Act [26 U.S.C. 3304],

then the amount available for transfer to such State’s account shall, in lieu of being so transferred, be transferred to the Federal unemployment account as of the beginning of such October 1. If, during the fiscal year beginning on such October 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 503 of this title, that the law of such State is approvable under such section 3304, or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for transfer to such State’s account as of October 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(2) The amount which, but for this paragraph, would be transferred to the account of a State under subsection (a) or paragraph (1) of this subsection shall be reduced (but not below zero) by the balance of advances made to the State under section 1321 of this title. The sum by which such amount is reduced shall—

(A) be transferred to or retained in (as the case may be) the Federal unemployment account, and

(B) be credited against, and operate to reduce—

(i) first, any balance of advances made before September 13, 1960, to the State under section 1321 of this title, and

(ii) second, any balance of advances made on or after September 13, 1960, to the State under section 1321 of this title.

(c) Use of funds

(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—