

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—

(A) by substituting “26 percent” for “40 percent” in subsection (a) thereof,

(B) by substituting “16.25 percent” for “25 percent” in subsection (i)(3)(A) thereof, and

(C) by only taking into account wages paid to a qualified veteran for services in furtherance of the activities related to the purpose or function constituting the basis of the organization's exemption under section 501.

(4) Applicable period

The term “applicable period” means, with respect to any qualified veteran, the 1-year period beginning with the day such qualified veteran begins work for the organization.

(5) Definitions

For purposes of this subsection—

(A) the term “qualified tax-exempt organization” means an employer that is an organization described in section 501(c) and exempt from taxation under section 501(a), and

(B) the term “qualified veteran” has meaning¹ given such term by section 51(d)(3).

¹ So in original. Probably should be preceded by “the”.

(f) Credit for research expenditures of qualified small businesses**(1) In general**

In the case of a taxpayer who has made an election under section 41(h) for a taxable year, there shall be allowed as a credit against the tax imposed by subsection (a) for the first calendar quarter which begins after the date on which the taxpayer files the return specified in section 41(h)(4)(A)(ii) an amount equal to the payroll tax credit portion determined under section 41(h)(2).

(2) Limitation

The credit allowed by paragraph (1) shall not exceed the tax imposed by subsection (a) for any calendar quarter on the wages paid with respect to the employment of all individuals in the employ of the employer.

(3) Carryover of unused credit

If the amount of the credit under paragraph (1) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be carried to the succeeding calendar quarter and allowed as a credit under paragraph (1) for such quarter.

(4) Deduction allowed for credited amounts

The credit allowed under paragraph (1) shall not be taken into account for purposes of determining the amount of any deduction allowed under chapter 1 for taxes imposed under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 416; Sept. 1, 1954, ch. 1206, title II, §208(c), 68 Stat. 1094; Aug. 1, 1956, ch. 836, title II, §202(c), 70 Stat. 845; Pub. L. 85-840, title IV, §401(c), Aug. 28, 1958, 72 Stat. 1042; Pub. L. 87-64, title II, §201(c), June 30, 1961, 75 Stat. 141; Pub. L. 89-97, title I, §111(c)(6), title III, §321(c), July 30, 1965, 79 Stat. 343, 396; Pub. L. 90-248, title I, §109(a)(3), (b)(3), Jan. 2, 1968, 81 Stat. 836, 837; Pub. L. 92-5, title II, §204(a)(2), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92-336, title II, §204(a)(3), (b)(3), July 1, 1972, 86 Stat. 421, 422; Pub. L. 92-603, title I, §135(a)(3), (b)(3), Oct. 30, 1972, 86 Stat. 1363, 1364; Pub. L. 93-233, §6(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 954, 955; Pub. L. 94-455, title XIX, §1903(a)(1), Oct. 4, 1976, 90 Stat. 1806; Pub. L. 95-216, title I, §101(a)(2), (b)(2), title III, §§315(b), 317(b)(2), Dec. 20, 1977, 91 Stat. 1511, 1512, 1537, 1540; Pub. L. 98-21, title I, §123(a)(2), Apr. 20, 1983, 97 Stat. 88; Pub. L. 100-203, title IX, §9006(b)(1), Dec. 22, 1987, 101 Stat. 1330-289; Pub. L. 100-647, title VIII, §8016(a)(5), Nov. 10, 1988, 102 Stat. 3793; Pub. L. 108-203, title IV, §415, Mar. 2, 2004, 118 Stat. 530; Pub. L. 111-147, title I, §101(a), Mar. 18, 2010, 124 Stat. 72; Pub. L. 112-56, title II, §261(e)(2), Nov. 21, 2011, 125 Stat. 730; Pub. L. 113-295, div. A, title II, §221(a)(99)(B), Dec. 19, 2014, 128 Stat. 4051; Pub. L. 114-113, div. Q, title I, §121(c)(2), Dec. 18, 2015, 129 Stat. 3051.)

REFERENCES IN TEXT

Section 233 of the Social Security Act, referred to in subsec. (c), is classified to section 433 of Title 42, The Public Health and Welfare.

The date of the enactment of this subsection, referred to in subsec. (d)(1), is the date of the enactment of Pub. L. 111-147, which was approved Mar. 18, 2010.

Section 101(b) of the Higher Education Act of 1965, referred to in subsec. (d)(2)(B), is classified to section 1001(b) of Title 20, Education.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114-113 added subsec. (f).

2014—Subsec. (a). Pub. L. 113-295, §221(a)(99)(B)(i), substituted “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)).” for “the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—” and table of rates.

Subsec. (b). Pub. L. 113-295, §221(a)(99)(B)(ii), substituted “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)).” for “the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

“(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

“(2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;

“(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

“(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

“(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and

“(6) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.”

2011—Subsec. (e). Pub. L. 112-56 added subsec. (e).

2010—Subsec. (d). Pub. L. 111-147 added subsec. (d).

2004—Subsec. (c). Pub. L. 108-203 substituted “exclusively to the laws applicable to” for “to taxes or contributions for similar purposes under”.

1988—Subsecs. (a), (b). Pub. L. 100-647 made technical correction to directory language of Pub. L. 100-203, §9006(b)(1), see 1987 Amendment note below.

1987—Subsecs. (a), (b). Pub. L. 100-203, as amended by Pub. L. 100-647, struck out “and (t)” after “3121(a)” in introductory provisions.

1983—Subsec. (a). Pub. L. 98-21 substituted table of rates for pars. (1) to (7) which had imposed a tax on every employer (1) with respect to wages paid during the calendar years 1974 through 1977 at the rate of 4.95 percent, (2) with respect to wages paid during the calendar year 1978 at the rate of 5.05 percent, (3) with respect to wages paid during the calendar years 1979 and 1980 at the rate of 5.08 percent, (4) with respect to wages paid during the calendar year 1981 at the rate of 5.35 percent, (5) with respect to wages paid during the calendar years 1982 through 1984 at the rate of 5.40 percent, (6) with respect to wages paid during the calendar years 1985 through 1989 at the rate of 5.70 percent, and (7) with respect to wages paid after Dec. 31, 1989, at the rate of 6.20 percent.

1977—Subsec. (a). Pub. L. 95-216, §§101(a)(2), 315(b), substituted “(as defined in section 3121(a) and (b))” for “(as defined in section 3121(a))” in provisions preceding par. (1), substituted “1974 through 1977” for “1974 through 2010” in par. (1), substituted “wages paid during the calendar year 1978, the rate shall be 5.05 percent” for “wages paid after December 31, 2010, the rate shall be 5.95 percent” in par. (2), and added pars. (3) to (7).

Subsec. (b). Pub. L. 95-216, §§101(b)(2), 315(b), substituted “(as defined in section 3121(a) and (b))” for “(as defined in section 3121(a))” in provisions preceding par. (1), substituted “wages paid during the calendar year 1978, the rate shall be 1.00 percent” for “wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent”, in par. (2), substituted “wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent” for wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent” in par. (3), substituted “wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent” for “wages paid after December 31, 1985, the rate shall be 1.50 percent” in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, §317(b)(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-455, §1903(a)(1)(A), redesignated pars. (5) and (6) as (1) and (2). Former pars. (1) to (4), which related to a tax rate of 3.8 percent with respect to wages received during the taxable year 1968, a tax rate of 4.2 percent with respect to wages received during the calendar year 1969 and 1970, a tax rate of 4.6 percent with respect to wages received during the calendar years 1971 and 1972, and a tax rate of 4.85 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

Subsec. (b). Pub. L. 94-455, §1903(a)(1)(B), redesignated pars. (3) to (6) as (1) to (4), respectively. Former pars. (1) and (2), which related to a tax rate of .60 percent with respect to wages received during the calendar years 1968, 1969, 1970, 1971, and 1972 and a tax rate of 1.0 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

1973—Subsec. (a)(4). Pub. L. 93-233, §6(a)(2), struck out provision for application of 4.85 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (a)(5). Pub. L. 93-233, §6(a)(2), increased rate of tax from 4.80 percent to 4.95 percent and substituted calendar year “1974” to “1978” as initial year for application of such rate.

Subsec. (a)(6). Pub. L. 93-233, §6(a)(2), increased rate of tax from 5.85 percent to 5.95 percent.

Subsec. (b)(2). Pub. L. 93-233, §6(b)(3), struck out provision for application of 1.0 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (b)(3). Pub. L. 93-233, §6(b)(3), incorporated former provision of par. (2) for taxation of wages received during calendar years 1974, 1975, 1976, and 1977, decreased the applicable rate of tax from 1.0 percent to 0.90 percent, and struck out provision for 1.25 percent rate of tax for calendar years 1978, 1979, and 1980.

Subsec. (b)(4). Pub. L. 93-233, §6(b)(3), incorporated former provision of par. (3) for taxation of wages received during calendar years 1978, 1979, and 1980, decreased the applicable rate of tax from 1.25 percent to 1.10 percent, and struck out provision for 1.35 percent rate of tax for calendar years 1981, 1982, 1983, 1984, and 1985.

Subsec. (b)(5). Pub. L. 93-233, §6(b)(3), incorporated former provision of par. (4) for taxation of wages received during calendar years 1981 through 1985 at applicable 1.35 percent rate of tax and struck out provision for 1.45 percent rate of tax for wages received after Dec. 31, 1985.

Subsec. (b)(6). Pub. L. 93-233, §6(b)(3), incorporated former provision of par. (5) for taxation of wages received after Dec. 31, 1985 and increased the applicable rate of tax from 1.45 percent to 1.50 percent.

1972—Subsec. (a)(3). Pub. L. 92-603, §135(a)(3)(A), substituted “the calendar years 1971 and 1972” for “any of the calendar years 1971 through 1977”.

Subsec. (a)(3) to (5). Pub. L. 92-336, §204(a)(3), substituted “any of the calendar years 1971 through 1977” for “the calendar years 1971 and 1972” in par. (3), “any of the calendar years 1978 through 2010” for “the calendar years 1973, 1974, and 1975” and “4.5” for “5.0” in par. (4), and “December 31, 2010” for “December 31, 1975” and “5.35” for “5.15” in par. (5).

Subsec. (a)(4). Pub. L. 92-603, §135(a)(3)(B), substituted “received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;” for “received during any of the calendar years 1978 through 2010, the rate shall be 4.5 percent; and”.

Subsec. (a)(5). Pub. L. 92-603, §135(a)(3)(B), substituted “received during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and” for “received after December 31, 2010, the rate shall be 5.35 percent”.

Subsec. (a)(6). Pub. L. 92-603, §135(a)(3)(B), added par. (6).

Subsec. (b)(2). Pub. L. 92-603, §135(b)(3), increased rate to 1.0 percent from 0.9 percent.

Subsec. (b)(2) to (5). Pub. L. 92-336, §204(b)(3), inserted references to 1976 and 1977 and substituted “0.9” for “0.65” in par. (2), substituted references for the calendar years 1978 through 1985 for references to the calendar years 1976 through 1979 and substituted “1.0” for

“0.70” in par. (3), substituted references for the calendar years 1986 through 1992 for references to the calendar years 1980 through 1986 and substituted “1.1” for “0.80” in par. (4), and substituted “1992” and “1986” and “1.2” for “0.9” in par. (5).

Subsec. (b)(3). Pub. L. 92-603, §135(b)(3), substituted “and 1980, the rate shall be 1.25 percent” for “1980, 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.0 percent”.

Subsec. (b)(4). Pub. L. 92-603, §135(b)(3), substituted “1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent” for “1986, 1987, 1988, 1989, 1990, 1991, and 1992, the rate shall be 1.1 percent”.

Subsec. (b)(5). Pub. L. 92-603, §135(b)(3), substituted “1985, the rate shall be 1.45 percent” for “1992, the rate shall be 1.2 percent”.

1971—Subsec. (a)(4). Pub. L. 92-5 substituted “with respect to wages paid during the calendar years 1973, 1974, and 1975, the rate shall be 5.0 percent; and” for “with respect to wages paid after December 31, 1972, the rate shall be 5.0 percent”.

Subsec. (a)(5). Pub. L. 92-5 added par. (5).

1968—Subsec. (a)(1) to (4). Pub. L. 90-248, §109(a)(3), substituted “1968” and “3.8” for “1966” and “3.85” in par. (1) and “1969 and 1970” and “4.2” for “1967 and 1968” and “3.9” in par. (2), struck out reference to calendar years 1969 and 1970 from par. (3) and substituted therein “4.6” for “4.4”, and substituted “5.0” for “4.85” in par. (4).

Subsecs. (b)(1) to (5). Pub. L. 90-248, §109(b)(3), struck out par. (1) provision for employer rate of 0.35 percent of wages paid with respect to employment during calendar year 1966, redesignated pars. (2) to (6) as (1) to (5), struck out reference to “1967” in such par. (1) and increased the rate by 0.10 percent to 0.60, 0.65, 0.70, 0.80, and 0.90 in pars. (1) to (5), respectively.

1965—Pub. L. 89-97, §321(c), divided the total excise tax imposed under the entire section upon employers through a tax equal to percentages of wages paid by him into two separate taxes by dividing the section into subsecs. (a) and (b), with subsec. (a) reflecting the tax for old-age, survivors, and disability insurance, and subsec. (b) reflecting the tax for hospital insurance, but, in the case of subsec. (b), without regard to the provisions of section 3121(b)(9) insofar as it relates to employees; increased from 4½ percent to 4.20 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1966 (resulting from a tax of 3.85 percent under subsec. (a) and 0.35 percent under subsec. (b)), increased from 4½ percent to 4.40 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1967 (resulting from a tax of 3.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), reduced from 4½ percent to 4.40 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1968 (resulting from a tax of 3.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), increased from 4½ percent to 4.90 percent the rate of total tax imposed by the entire section upon wages paid during the calendar years 1969, 1970, 1971, and 1972 (resulting from a tax of 4.4 percent under subsec. (a) and 0.50 percent under subsec. (b)), increased from 4½ percent to 5.40 percent the rate for calendar years 1973, 1974, and 1975 (resulting from a tax of 4.85 percent under subsec. (a) and 0.55 percent under subsec. (b)), increased from 4½ percent to 5.45 percent the rate for calendar years 1976, 1977, 1978, and 1979 (resulting from a tax of 4.85 percent under subsec. (a) and 0.60 percent under subsec. (b)), increased from 4½ percent to 5.55 percent the rate for calendar years 1980 through 1986 (resulting from a tax of 4.85 percent under subsec. (a) and 0.70 percent under subsec. (b)), and increased the rate from 4½ percent to 5.65 percent for calendar years after December 31, 1986 (resulting from a tax of 4.85 percent under subsec. (a) and 0.80 percent under subsec. (b)).

Subsec. (b). Pub. L. 89-97, §111(c)(6), struck out “, but without regard to the provisions of paragraph (9) thereof insofar as it relates to employees” after “as defined in section 3121(b)”.

1961—Pub. L. 87-64 increased rate of tax for calendar year 1962 from 3 to 3½ percent, calendar years 1963 to

1965, inclusive, from 3½ to 3¾ percent, calendar years 1966 and 1967 from 4 to 4¼ percent, calendar year 1968 from 4 to 4½ percent, and for calendar years after December 31, 1968, from 4½ to 4¾ percent.

1958—Pub. L. 85-840 increased rate of tax by substituting provisions imposing a tax of 2½ percent for calendar year 1959, 3 percent for calendar years 1960-62, 3½ percent for calendar years 1963-65, 4 percent for calendar years 1966-68, and 4½ percent for calendar years beginning after Dec. 31, 1968, for provisions which imposed a tax of 2¼ percent for calendar years 1957-59, 2¾ percent for calendar years 1960-64, 3¼ percent for calendar years 1965-69, 3¾ percent for calendar years 1970-74, and 4¼ percent for calendar years beginning after Dec. 31, 1974.

1956—Act Aug. 1, 1956, increased rate of tax with respect to wages paid during calendar years 1957 to 1959, and for all calendar years thereafter, by one-quarter percent.

1954—Act Sept. 1, 1954, increased 3¼ percent rate of tax for calendar year 1970 and subsequent years to 3½ percent for calendar years 1970 to 1974 and 4 percent for 1975 and subsequent years.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to taxable years beginning after Dec. 31, 2015, see section 121(d)(3) of Pub. L. 114-113, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-56 applicable to individuals who begin work for the employer after Nov. 21, 2011, see section 261(g) of Pub. L. 112-56, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to wages paid after Mar. 18, 2010, see section 101(e) of Pub. L. 111-147, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VIII, § 8016(b), Nov. 10, 1988, 102 Stat. 3793, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 3121 and 3306 of this title, and sections 405, 410, and 411 of Title 42, The Public Health and Welfare] shall be effective on the date of the enactment of this Act [Nov. 10, 1988].

“(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.] or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, § 9006(c), Dec. 22, 1987, 101 Stat. 1330-289, provided that: “The amendments made by this section [amending this section and section 3121 of this title] shall apply with respect to tips received (and wages paid) on and after January 1, 1988.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to remuneration paid after Dec. 31, 1983, see section 123(a)(3) of Pub. L. 98-21, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 101(a)(2), (b)(2) of Pub. L. 95-216 applicable with respect to remuneration paid or

received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95-216, set out as a note under section 1401 of this title.

Pub. L. 95-216, title III, § 315(c), Dec. 20, 1977, 91 Stat. 1537, provided that: “The amendments made by this section [amending this section and section 3121 of this title] shall apply with respect to wages paid with respect to employment performed in months after December 1977.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to wages paid after Dec. 31, 1976, see section 1903(d) of Pub. L. 94-455, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after December 31, 1973, see section 6(c) of Pub. L. 93-233, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92-603 applicable only with respect to remuneration paid after Dec. 31, 1972, see section 135(c) of Pub. L. 92-603, set out as a note under section 1401 of this title.

Amendment by Pub. L. 92-336 applicable only with respect to remuneration paid after December 31, 1972, see section 204(c) of Pub. L. 92-336, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to remuneration paid after Dec. 31, 1971, see section 204(b) of Pub. L. 92-5, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable only with respect to remuneration paid after Dec. 31, 1967, see section 109(c) of Pub. L. 90-248, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 111(c)(6) of Pub. L. 89-97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act (section 3201 et seq. of this title) provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act (section 3101 et seq. of this title) provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97, set out as an Effective Date note under section 1395i-1 of Title 42, The Public Health and Welfare.

Amendment by section 321(c) of Pub. L. 89-97 applicable with respect to remuneration paid after December 31, 1965, see section 321(d) of Pub. L. 89-97, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-64 applicable with respect to remuneration paid after Dec. 31, 1961, see section 201(d) of Pub. L. 87-64, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-840 applicable with respect to remuneration paid after Dec. 31, 1958, see section 401(d) of Pub. L. 85-840, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, applicable with respect to remuneration paid after Dec. 31, 1956, see sec-

tion 202(d) of such act Aug. 1, 1956, set out as a note under section 1401 of this title.

PENALTIES AND INTEREST NOT ASSESSED FOR FAILURE TO MAKE TIMELY PAYMENT DURING PERIOD JANUARY 1, 1982, TO JUNE 30, 1982, OF TAXES ATTRIBUTABLE TO AMENDMENTS BY PUB. L. 97-123

For provision that no penalties or interest shall be assessed on account of any failure to make timely payment of taxes imposed by this section with respect to payments made for the period Jan. 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to section 3 of Pub. L. 97-123 or the amendments made by that section, see section 3(f) of Pub. L. 97-123, set out as a note under section 3101 of this title.

§ 3112. Instrumentalities of the United States

Notwithstanding any other provision of law (whether enacted before or after the enactment of this section) which grants to any instrumentality of the United States an exemption from taxation, such instrumentality shall not be exempt from the tax imposed by section 3111 unless such other provision of law grants a specific exemption, by reference to section 3111 (or the corresponding section of prior law), from the tax imposed by such section.

(Aug. 16, 1954, ch. 736, 68A Stat. 416.)

[§ 3113. Repealed. Pub. L. 94-455, title XIX, § 1903(a)(2), Oct. 4, 1976, 90 Stat. 1806]

Section, added Aug. 1, 1956, ch. 836, title II, § 201(a)(1), 70 Stat. 839, related to a restriction on exemptions from taxation for District of Columbia credit unions with respect to the tax imposed by section 3111 of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to wages paid after Dec. 31, 1976, see section 1903(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 3101 of this title.

Subchapter C—General Provisions

Sec.	
3121.	Definitions.
3122.	Federal service.
3123.	Deductions as constructive payments.
3124.	Estimate of revenue reduction.
3125.	Returns in the case of governmental employees in States, Guam, American Samoa, and the District of Columbia.
3126.	Return and payment by governmental employer.
3127.	Exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs.
3128.	Short title.

AMENDMENTS

1988—Pub. L. 100-647, title VIII, § 8007(a)(2), Nov. 10, 1988, 102 Stat. 3782, added item 3127 and redesignated former item 3127 as 3128.

1986—Pub. L. 99-509, title IX, § 9002(a)(2), Oct. 21, 1986, 100 Stat. 1971, added item 3126 and redesignated former item 3126 as 3127.

Pub. L. 99-272, title XIII, § 13205(a)(2)(A)(iii), Apr. 7, 1986, 100 Stat. 315, inserted “States,” in item 3125.

1965—Pub. L. 89-97, title III, § 317(c)(3), July 30, 1965, 79 Stat. 389, inserted reference to the District of Columbia in item 3125.

1960—Pub. L. 86-778, title I, § 103(q)(2), Sept. 13, 1960, 74 Stat. 940, added item 3125 and redesignated former item 3125 as 3126.

§ 3121. Definitions

(a) Wages

For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include—

(1) in the case of the taxes imposed by sections 3101(a) and 3111(a) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term “wages” only payments which are received under a workman’s compensation law), or

(B) medical or hospitalization expenses in connection with sickness or accident disability, or

(C) death, except that this paragraph does not apply to a payment for group-term life