

after the date of the enactment of this Act [Oct. 4, 1976].”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made”.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, “State” means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms “serve as a member of the armed forces” and “service as a member of the Armed Forces” include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 94-455, title XII, §1207(a)(1), (b), (c), Oct. 4, 1976, 90 Stat. 1704, 1705; Pub. L. 100-180, div. A, title V, §505(1), Dec. 4, 1987, 101 Stat. 1086; Pub. L.

103-337, div. A, title XVI, §1677(a)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 105-34, title XIV, §1462(a), Aug. 5, 1997, 111 Stat. 1057.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 84b.	July 17, 1952, ch. 940, §1, 66 Stat. 765. Sept. 23, 1959, Pub. L. 86-371 “Sec. 1”, 73 Stat. 653.
.....	5 U.S.C. 84c.	July 17, 1952, ch. 940, §2, 66 Stat. 766. Sept. 23, 1959, Pub. L. 86-371 “Sec. 2”, 73 Stat. 653.

In subsection (b), the words “after March 31, 1959” are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34 substituted “, territory, possession, or commonwealth” for “or territory or possession”.

1994—Subsec. (d)(2). Pub. L. 103-337 substituted “section 10147” for “section 270(a)”.

1987—Subsec. (d). Pub. L. 100-180 struck out “do not” before “include”.

1976—Subsec. (a). Pub. L. 94-455, §1207(a)(1), (c), inserted in par. (1) provision relating to the grant to employers of the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld, inserted in par. (2) “or grants the authority” after “imposes the duty”, and substituted in text following par. (2) provisions that in the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made” for provision that the agreement may not apply to pay for service as a member of the armed forces.

Subsec. (d). Pub. L. 94-455, §1207(b), added subsec. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1462(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(a)(1) of Pub. L. 94-455 applicable to wages withheld after the 120-day period following any request for an agreement after Oct. 4, 1976, see section 1207(f)(1) of Pub. L. 94-455, set out as a note under section 5516 of this title.

Pub. L. 94-455, title XII, §1207(f)(2), Oct. 4, 1976, 90 Stat. 1708, provided that: “The amendments made by subsections (b) and (c) [amending this section] shall apply to wages withheld after the 120-day period following the date of the enactment of this Act [Oct. 4, 1976].”

EXECUTIVE ORDER NO. 10407

Ex. Ord. No. 10407, Nov. 7, 1952, 17 F.R. 10132, which related to regulations governing agreements concerning withholding of state or territorial income taxes, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out as a note under section 5520 of this title.

§ 5518. Deductions for State retirement systems; National Guard employees

When—

(1) a State statute provides for the payment of employee contributions to a State employee retirement system or to a State sponsored plan providing retirement, disability, or death benefits, by withholding sums from the pay of State employees and making returns of the sums withheld to State authorities or to the person or organization designated by State authorities to receive sums withheld for the program; and

(2) individuals employed by the Army National Guard and the Air National Guard, except employees of the National Guard Bureau, are eligible for membership in a State employee retirement system or other State sponsored plan;

the Secretary of Defense, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Department of Defense shall comply with the requirements of State statute as to the individuals named by paragraph (2) of this section who are eligible for membership in the State employee retirement system. The disbursing officials paying these individuals shall withhold and pay to the State employee retirement system or to the person or organization designated by State authorities to receive sums withheld for the program the employee contributions for these individuals. For the purpose of this section, "State" means a State or territory or possession of the United States including the Commonwealth of Puerto Rico.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 479.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 84d, June 15, 1956, ch. 390, 70 Stat. 283. Sept. 13, 1961, Pub. L. 87-224, § 1, 75 Stat. 496.

The words "individuals employed by" and the word "individuals" are substituted for "civilian employees of" and "employees", respectively, in view of the definition of "employee" in section 2105 which is limited to those employed by the Government of the United States. The word "civilian" is omitted as unnecessary as military personnel are not "employed". The words "disbursing officials" are substituted for "disbursing officers" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10996. WITHHOLDING OF COMPENSATION FOR STATE AND STATE-SPONSORED EMPLOYEE RETIREMENT, DISABILITY, OR DEATH BENEFITS PROGRAMS

Ex. Ord. No. 10996, Feb. 16, 1962, 27 F.R. 1521, provided: By virtue of the authority vested in me by the act of June 15, 1956, as amended, 75 Stat. 496 (5 U.S.C. 84d) [now this section], and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order, the term:

(a) "Employees" means civilian employees of the Army National Guard or Air National Guard of a State who are employed pursuant to section 709 of title 32 of the United States Code, and paid from Federal, appropriated funds.

(b) "State" means one of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

SEC. 2. Each agreement between the Secretary of Defense and the Governor or other proper official of a State, pursuant to the provisions of the act of June 15, 1956, as amended, with respect to withholding of compensation of certain civilian employees of the Army National Guard and the Air National Guard for purposes of State or State-sponsored employee retirement, disability, or death benefits systems, shall be entered into by the Secretary of Defense within one hundred and twenty days of the receipt of a request therefor by the Secretary from the Governor or any other proper official of any State; Provided, that—

(a) the law of such State provides for the payment of employee contributions to such State or State-sponsored employee retirement, disability, or death benefits systems by withholding sums from the compensation of such State employees and making returns of such sums to officials of such State or organization designated by such officials to receive sums withheld for such programs;

(b) civilian employees of the Army National Guard and the Air National Guard, other than those employed by the National Guard Bureau, are eligible for membership in a State retirement, disability, or death benefits system; and

(c) each such agreement is consistent with the provisions of the said act of June 15, 1956, as amended, and of rules and regulations issued thereunder, and contains a clause that it shall be subject to any amendments of the said act, including amendments occurring after the effective date of such agreement.

SEC. 3. Each such agreement shall:

(a) Provide that the Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall comply with the requirements of such State law in the case of employee subject to the said act of June 15, 1956, as amended, who are eligible for membership in such retirement, disability, or death benefits system for State employees;

(b) Specify when the withholding of sums from the compensation of such State employees shall commence; and

(c) Provide for procedures for the withholding, the filing of the returns, and the payment of the sums withheld from compensation to the officials of the State, or organization designated by such officials to receive sums withheld for such programs, which procedures shall conform, so far as practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force, respectively.

SEC. 4. The Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold sums from compensation, file required returns, and direct the payment of sums so withheld, in accordance with the terms of the agreements entered into between the Secretary of Defense and the States.

SEC. 5. Nothing in this order, or in rules or regulations issued thereunder, or in any agreement entered into pursuant thereto, shall be construed as giving consent to the application of any provision of law of any State which has the effect of imposing more burdensome requirements upon the United States than it imposes upon departments, agencies, or political subdivisions of the State concerned, with respect to employees thereof who are members of the State or State-sponsored retirement, disability, or death benefits system,