

this section [enacting this section and amending section 6401 of this title] shall apply to distributions after December 31, 1987 (or, if earlier, the effective date (which shall not be earlier than January 1, 1987) of the initial regulations issued under section 1446 of the Internal Revenue Code of 1986 as added by this section).”

Subchapter B—Application of Withholding Provisions

Sec.	
1461.	Liability for withheld tax.
1462.	Withheld tax as credit to recipient of income.
1463.	Tax paid by recipient of income.
1464.	Refunds and credits with respect to withheld tax.
[1465.	Repealed.]

PRIOR PROVISIONS

A prior subchapter B, consisting of section 1451, acts Aug. 16, 1954, ch. 736, 68A Stat. 359; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834, related to tax-free covenant bonds, prior to repeal by Pub. L. 98-369, div. A, title IV, §474(r)(29)(A), July 18, 1984, 98 Stat. 844, which repeal was not applicable with respect to obligations issued before Jan. 1, 1984, pursuant to section 475(b) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 33 of this title.

AMENDMENTS

1986—Pub. L. 99-514, title XVIII, §1899A(73), Oct. 22, 1986, 100 Stat. 2963, substituted “Liability for withheld tax” for “Return and payment of withheld tax” in item 1461.

1984—Pub. L. 98-369, div. A, title IV, §474(r)(29)(A), July 18, 1984, 98 Stat. 844, redesignated subchapter C as B, and struck out former subchapter B which related to tax-free covenant bonds.

1976—Pub. L. 94-455, title XIX, §1901(b)(41), Oct. 4, 1976, 90 Stat. 1803, struck out item 1465 “Definition of withholding agent”.

[§ 1451. Repealed. Pub. L. 98-369, div. A, title IV, § 474(r)(29)(A), July 18, 1984, 98 Stat. 844]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 359; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834, related to tax-free covenant bonds. The repeal was not applicable with respect to obligations issued before Jan. 1, 1984, pursuant to section 475(b) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 33 of this title.

§ 1461. Liability for withheld tax

Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

(Aug. 16, 1954, ch. 736, 68A Stat. 360; Pub. L. 89-809, title I, §103(i), Nov. 13, 1966, 80 Stat. 1554.)

AMENDMENTS

1966—Pub. L. 89-809 struck out requirement that persons required to deduct and withhold any tax under this chapter make return thereof on or before March 15 of each year and pay the tax to the officer designated in section 6151, and substituted “Liability for withheld tax” for “Return and payment of withheld tax” in section catchline.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to payments occurring after Dec. 31, 1966, see section 103(n)(3) of Pub. L. 89-809, set out as a note under section 871 of this title.

§ 1462. Withheld tax as credit to recipient of income

Income on which any tax is required to be withheld at the source under this chapter shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(Aug. 16, 1954, ch. 736, 68A Stat. 360.)

§ 1463. Tax paid by recipient of income

If—

(1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and

(2) thereafter the tax against which such tax may be credited is paid,

the tax so required to be deducted and withheld shall not be collected from such person; but this section shall in no case relieve such person from liability for interest or any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

(Aug. 16, 1954, ch. 736, 68A Stat. 360; Pub. L. 101-239, title VII, §7743(a), Dec. 19, 1989, 103 Stat. 2406; Pub. L. 104-188, title I, §1704(t)(9), Aug. 20, 1996, 110 Stat. 1887.)

AMENDMENTS

1996—Pub. L. 104-188 substituted “this section” for “this subsection”.

1989—Pub. L. 101-239 amended section generally. Prior to amendment, section read as follows: “If any tax required under this chapter to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed on or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7743(b), Dec. 19, 1989, 103 Stat. 2406, provided that: “The amendment made by subsection (a) [amending this section] shall apply to failures after December 31, 1989.”

§ 1464. Refunds and credits with respect to withheld tax

Where there has been an overpayment of tax under this chapter, any refund or credit made under chapter 65 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 360.)

[§ 1465. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(156), Oct. 4, 1976, 90 Stat. 1789]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 360, defined withholding agent.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

CHAPTER 4—TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN ACCOUNTS

Sec.	
1471.	Withholdable payments to foreign financial institutions.

Sec.	
1472.	Withholdable payments to other foreign entities.
1473.	Definitions.
1474.	Special rules.

PRIOR PROVISIONS

A prior chapter 4, consisting of sections 1481 and 1482, which related to rules applicable to recovery of excessive profits on government contracts, was repealed by Pub. L. 101-508, title XI, §11801(a)(37), Nov. 5, 1990, 104 Stat. 1388-521.

Section 1481, acts Aug. 16, 1954, ch. 736, 68A Stat. 362; June 21, 1965, Pub. L. 89-44, title VIII, §809(d)(5)(B), 79 Stat. 168; Oct. 4, 1976, Pub. L. 94-455, title XIX, §§1901(a)(157), 1906(b)(13)(A), 1951(b)(14)(A), 90 Stat. 1789, 1834, 1840, related to mitigation of effect of renegotiation of government contracts.

Section 1482, added Pub. L. 85-866, title I, §62(a), Sept. 2, 1958, 72 Stat. 1648, related to readjustment for repayments made pursuant to price redeterminations.

§ 1471. Withholdable payments to foreign financial institutions

(a) In general

In the case of any withholdable payment to a foreign financial institution which does not meet the requirements of subsection (b), the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

(b) Reporting requirements, etc.

(1) In general

The requirements of this subsection are met with respect to any foreign financial institution if an agreement is in effect between such institution and the Secretary under which such institution agrees—

(A) to obtain such information regarding each holder of each account maintained by such institution as is necessary to determine which (if any) of such accounts are United States accounts,

(B) to comply with such verification and due diligence procedures as the Secretary may require with respect to the identification of United States accounts,

(C) in the case of any United States account maintained by such institution, to report on an annual basis the information described in subsection (c) with respect to such account,

(D) to deduct and withhold a tax equal to 30 percent of—

(i) any passthru payment which is made by such institution to a recalcitrant account holder or another foreign financial institution which does not meet the requirements of this subsection, and

(ii) in the case of any passthru payment which is made by such institution to a foreign financial institution which has in effect an election under paragraph (3) with respect to such payment, so much of such payment as is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection,

(E) to comply with requests by the Secretary for additional information with re-

spect to any United States account maintained by such institution, and

(F) in any case in which any foreign law would (but for a waiver described in clause (i)) prevent the reporting of any information referred to in this subsection or subsection (c) with respect to any United States account maintained by such institution—

(i) to attempt to obtain a valid and effective waiver of such law from each holder of such account, and

(ii) if a waiver described in clause (i) is not obtained from each such holder within a reasonable period of time, to close such account.

Any agreement entered into under this subsection may be terminated by the Secretary upon a determination by the Secretary that the foreign financial institution is out of compliance with such agreement.

(2) Financial institutions deemed to meet requirements in certain cases

A foreign financial institution may be treated by the Secretary as meeting the requirements of this subsection if—

(A) such institution—

(i) complies with such procedures as the Secretary may prescribe to ensure that such institution does not maintain United States accounts, and

(ii) meets such other requirements as the Secretary may prescribe with respect to accounts of other foreign financial institutions maintained by such institution, or

(B) such institution is a member of a class of institutions with respect to which the Secretary has determined that the application of this section is not necessary to carry out the purposes of this section.

(3) Election to be withheld upon rather than withhold on payments to recalcitrant account holders and nonparticipating foreign financial institutions

In the case of a foreign financial institution which meets the requirements of this subsection and such other requirements as the Secretary may provide and which elects the application of this paragraph—

(A) the requirements of paragraph (1)(D) shall not apply,

(B) the withholding tax imposed under subsection (a) shall apply with respect to any withholdable payment to such institution to the extent such payment is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection, and

(C) the agreement described in paragraph (1) shall—

(i) require such institution to notify the withholding agent with respect to each such payment of the institution's election under this paragraph and such other information as may be necessary for the withholding agent to determine the appropriate amount to deduct and withhold from such payment, and

(ii) include a waiver of any right under any treaty of the United States with re-