

refund which would be allowed if the service constituted employment for purposes of chapter 21 of such Code) has been obtained, paragraph (1) shall not apply with respect to the individual unless the amount credited or refunded (including any interest under section 6611 of such Code) is repaid before January 1, 1968, or, if later, the first day of the third year after the year in which the organization filed a certificate pursuant to section 3121(k)(1) of such Code.

“(5) Paragraph (1) shall not apply to any service performed for the organization in a period for which a certificate filed pursuant to section 3121(k)(1) of such Code is not in effect.”

[Pub. L. 89-97, title III, §316(c)(2), July 30, 1965, 79 Stat. 387, provided that: “The amendment made by paragraph (1) [amending section 105(b) of Pub. L. 86-778, set out above] shall take effect on the date of the enactment of this Act [July 30, 1965]. The provisions of section 105(b) of the Social Security Amendments of 1960 [section 105(b) of Pub. L. 86-778] which were in effect before the date of the enactment of this Act [July 30, 1965] shall be applicable with respect to any request filed under section 105(b)(1) of such Amendments before such date. Nothing in the preceding sentence shall prevent the filing of a request under section 105(b)(1) of such Amendments as amended by this Act.”]

SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS FOR WHICH REMUNERATION WAS PAID BEFORE JULY 30, 1965, BUT AFTER FILING OF WAIVER CERTIFICATE

Pub. L. 89-97, title III, §316(d), July 30, 1965, 79 Stat. 387, provided that where an individual performed service for which remuneration was paid before July 30, 1965, by an organization which, before such date, filed a waiver certificate pursuant to subsec. (k)(1) of this section, then under certain conditions, the remuneration paid with respect to such service was to be deemed remuneration for employment for purposes of title II of the Social Security Act, sections 401 et seq. of Title 42, The Public Health and Welfare, even though normally excluded from employment under title II of the Social Security Act.

SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS PERFORMED AFTER 1950 AND PRIOR TO JULY 1, 1960

Pub. L. 86-778, title I, §105(b)(1)–(5), Sept. 13, 1960, 74 Stat. 943, 944, provided that where an individual performed service in the employ of an organization after 1950 with respect to which remuneration was paid before 1960 and such service is normally excepted from employment under title II of the Social Security Act (42 U.S.C. 401 et seq.), then under certain conditions, the remuneration paid with respect to such service was to be deemed remuneration for employment for purposes of title II of the Social Security Act.

SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS PERFORMED AFTER 1950 AND PRIOR TO 1957

Act Sept. 1, 1954, ch. 1206, title IV, §403, 68 Stat. 1098, as amended by acts Aug. 1, 1956, ch. 836, title IV, §401, 70 Stat. 855; Aug. 27, 1958, Pub. L. 85-785, §§1-3, 72 Stat. 938, provided that where an individual has been employed after 1950 and before Aug. 1, 1956, by an organization exempt from income tax under section 501(c)(3) of this title but which did not have in effect during the individual's period of employment a valid waiver certificate, or, which failed to have the individual's signature appear on the list of signatures of employees who concurred in the filing of such certificate, where one was in effect, and the service performed by the individual would have constituted employment for purposes of title II of the Social Security Act (42 U.S.C. 401 et seq.) had such requirements been met, then under certain conditions, the remuneration paid was to be deemed remuneration for employment for purposes of title II of the Social Security Act.

§ 3122. Federal service

In the case of the taxes imposed by this chapter with respect to service performed in the em-

ploy of the United States or in the employ of any instrumentality which is wholly owned by the United States, including such service which is medicare qualified government employment (as defined in section 3121(u)(3)), including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. In the case of the taxes imposed by this chapter with respect to service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency from which the transfer was made. Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under subsections (a) and (b) of section 3121 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121(a)(1). Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Department in which the Coast Guard is operating, at installations of the

Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section the Secretary of the Department in which the Coast Guard is operating shall be deemed to be the head of such instrumentality.

(Aug. 16, 1954, ch. 736, 68A Stat. 428; Sept. 1, 1954, ch. 1206, title II, §§202(c), 203(a), 68 Stat. 1090; Aug. 1, 1956, ch. 837, title IV, §411(b), (c), 70 Stat. 879; Pub. L. 85-840, title IV, §402(c), Aug. 28, 1958, 72 Stat. 1042; Pub. L. 85-866, title I, §70, Sept. 2, 1958, 72 Stat. 1660; Pub. L. 87-293, title II, §202(a)(3), Sept. 22, 1961, 75 Stat. 626; Pub. L. 89-97, title III, §320(b)(3), July 30, 1965, 79 Stat. 393; Pub. L. 90-248, title I, §108(b)(3), Jan. 2, 1968, 81 Stat. 835; Pub. L. 92-5, title II, §203(b)(3), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92-236, §203(b)(3), July 1, 1972, 86 Stat. 419; Pub. L. 93-66, §203(b)(3), (d), July 9, 1973, 87 Stat. 153; Pub. L. 93-233, §5(b)(3), (d), Dec. 31, 1973, 87 Stat. 954; Pub. L. 94-455, title XIX, §1903(a)(4), Oct. 4, 1976, 90 Stat. 1807; Pub. L. 97-248, title II, §278(a)(3), Sept. 3, 1982, 96 Stat. 560; Pub. L. 99-272, title XIII, §13205(a)(2)(C), Apr. 7, 1986, 100 Stat. 315; Pub. L. 100-647, title VIII, §8015(a)(2), Nov. 10, 1988, 102 Stat. 3791; Pub. L. 101-508, title XI, §11331(d)(2), Nov. 5, 1990, 104 Stat. 1388-468; Pub. L. 103-66, title XIII, §13207(d)(4), Aug. 10, 1993, 107 Stat. 468; Pub. L. 103-296, title III, §319(a)(2), Aug. 15, 1994, 108 Stat. 1534; Pub. L. 109-241, title IX, §902(i), July 11, 2006, 120 Stat. 567.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in text, is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

AMENDMENTS

2006—Pub. L. 109-241 substituted “Secretary of the Department in which the Coast Guard is operating” for “Secretary of Transportation” in two places.

1994—Pub. L. 103-296 inserted after first sentence “In the case of the taxes imposed by this chapter with respect to service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency from which the transfer was made.”

1993—Pub. L. 103-66 substituted “contribution and benefit base limitation” for “applicable contribution base limitation”.

1990—Pub. L. 101-508 substituted “applicable contribution base limitation” for “contribution and benefit base limitation”.

1988—Pub. L. 100-647 struck out from first sentence “the determination whether an individual has performed service which constitutes employment as defined in section 3121(b),” after “section 3121(p) are applicable,” and “which constitutes wages as defined in section 3121(a)” after “remuneration for such service”, and inserted after first sentence “Nothing in this paragraph shall be construed to affect the Secretary’s authority to determine under subsections (a) and (b) of section 3121 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.”

1986—Pub. L. 99-272 substituted “including such service which is medicare qualified government employ-

ment (as defined in section 3121(u)(3))” for “including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))”.

1982—Pub. L. 97-248 inserted “including service which is medicare qualified Federal employment (as defined in section 3121(u)(2)).”

1976—Pub. L. 94-455 substituted “Secretary of Transportation” for “Secretary” in two places.

1973—Pub. L. 93-233, §5(b)(3), effective with respect to remuneration paid after 1973, substituted “\$13,200” for “\$12,600”.

Pub. L. 93-233, §5(d), applicable only with respect to remuneration paid after, and taxable year beginning after, 1973 (as provided in section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42), amended section 203(b)(3)(C) of Pub. L. 92-336 (set out as 1973 Amendment note hereunder) substituting “\$13,200” for “\$12,600”.

Pub. L. 93-66, §203(b)(3), effective with respect to remuneration paid after 1973, substituted “\$12,600” for “\$12,000”.

Pub. L. 93-66, §203(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42), amended section 203(b)(3)(C) of Pub. L. 92-336 (set out as 1972 Amendment note hereunder) substituting “\$12,600” for “\$12,000”.

1972—Pub. L. 92-336, §203(b)(3)(A), substituted “\$10,800” for “\$9,000”.

Pub. L. 92-336, §203(b)(3)(B), effective with respect to remuneration paid after 1973, substituted “\$12,000” for “\$10,800”.

Pub. L. 92-336, §203(b)(3)(C), effective with respect to remuneration paid after 1974, substituted “contribution and benefit base” for “\$12,000”.

1971—Pub. L. 92-5 substituted “\$9,000” for “\$7,800”.

1968—Pub. L. 90-248 substituted “\$7,800” for “\$6,600” in second sentence.

1965—Pub. L. 89-97 substituted “\$6,600” for “\$4,800”.

1961—Pub. L. 87-293 inserted “and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable,” after “section 3121(m)(1) are applicable.”

1958—Pub. L. 85-866 substituted “section” for “subsection” wherever appearing.

Pub. L. 85-840 substituted “\$4,800” for “\$4,200”.

1956—Act Aug. 1, 1956, included taxes with respect to service, performed as a member of a uniformed service, to which provisions of section 3121(m)(1) of this title are applicable, and authorized payment of tax imposed under section 3111 of this title from appropriations available for pay of members of the uniformed service.

1954—Act Sept. 1, 1954, §202(c), substituted “\$4,200” for “\$3,600”.

Act Sept. 1, 1954, §203(a), inserted provisions making section applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard installations.

EFFECTIVE DATE OF 1994 AMENDMENT

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 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to 1994 and later calendar years, see section 13207(e) of Pub. L. 103-66, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to 1991 and later calendar years, see section 11331(e) of Pub. L. 101-508, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VIII, §8015(a)(3), Nov. 10, 1988, 102 Stat. 3791, provided that: “The amendments made by

paragraphs (1) and (2) [amending this section and section 405 of Title 42, The Public Health and Welfare] shall apply to determinations relating to service commenced in any position on or after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1982, see section 278(c)(1) of Pub. L. 97-248, set out as a note under section 3121 of this title.

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 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-336 applicable only with respect to remuneration paid after December 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to remuneration paid after December 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-97 applicable with respect to remuneration paid after December, 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-840 applicable only with respect to remuneration paid after 1958, see section 402(e) of Pub. L. 85-840, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, effective Jan. 1, 1956, see act Aug. 1, 1956, ch. 837, title VI, § 603(a), 70 Stat. 887.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 202(c) of act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 202(d) of act Sept. 1, 1954, set out as a note under section 1401 of this title.

Act Sept. 1, 1954, ch. 1206, title II, § 203(b), 68 Stat. 1091, provided that: “The amendment made by subsection (a) [amending this section] shall become effective January 1, 1955.”

REPEALS; AMENDMENTS AND APPLICATION OF AMENDMENT UNAFFECTED

Section 202(a)(3) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

§ 3123. Deductions as constructive payments

Whenever under this chapter or any act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(Aug. 16, 1954, ch. 736, 68A Stat. 429.)

§ 3124. Estimate of revenue reduction

The Secretary at intervals of not longer than 3 years shall estimate the reduction in the amount of taxes collected under this chapter by reason of the operation of section 3121(b)(9) and shall include such estimate in his annual report.

(Aug. 16, 1954, ch. 736, 68A Stat. 429; Sept. 1, 1954, ch. 1206, title II, § 205(b), 68 Stat. 1091; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1954—Act Sept. 1, 1954, substituted “section 3121(b)(9)” for “section 3121(b)(10)”.

§ 3125. Returns in the case of governmental employees in States, Guam, American Samoa, and the District of Columbia

(a) States

Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments