act of July 30, 1947 (ch. 389, §1, 61 Stat. 641), the provisions of former section 420 of title 18, U.S.C. (act of June 6, 1934, ch. 406, 48 Stat. 909), which, in the course of the revision of such title 18, was omitted therefrom and recommended for transfer to such title 4. (See table 7—Transferred sections, p. A219, H. Rept. No. 304, April 24, 1947, to accompany H.R. 3190, 80th Cong.).

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–406 inserted ''Guam'' after ''the Virgin Islands,''.

1956—Act Aug. 3, 1956, designated existing provisions as subsec. (a) and added subsec. (b).

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 113. Residence of Members of Congress for State income tax laws

(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

(2) treat any compensation paid by the United States to such Member as income for services performed within, or from sources within, such State or political subdivision thereof,

unless such Member represents such State or a district in such State.

(b) For purposes of subsection (a)—

(1) the term ''Member of Congress'' includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico; and

(2) the term ''State'' includes the District of Columbia.

(Added Pub. L. 95–67, §1(a), July 19, 1977, 91 Stat. 271.)

EFFECTIVE DATE

Pub. L. 95–67, §1(c), July 19, 1977, 91 Stat. 271, provided that: ''The amendments made by subsections (a) and (b) [enacting this section and amending analysis preceding section 101 of this title] shall be effective with respect to all taxable years, whether beginning before, on, or after the date of the enactment of this Act [July 19, 1977].''

RESIDENCE OF MEMBERS OF CONGRESS FOR STATE PERSONAL PROPERTY TAX ON MOTOR VEHICLES

Pub. L. 99–190, §101(c) [H.R. 3067, §131], Dec. 19, 1985, 99 Stat. 1224; Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433, provided that:

''(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may impose a personal property tax with respect to any motor vehicle owned by such Member (or by the spouse of such Member) unless such Member represents such State or a district in such State.

''(b) For purposes of this section—

''(1) the term 'Member of Congress' includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico;

''(2) the term 'State' includes the District of Columbia; and

''(3) the term 'personal property tax' means any tax imposed on an annual basis and levied on, with respect to, or measured by, the market value or assessed value of an item of personal property.

''(c) This section shall apply to all taxable periods beginning on or after January 1, 1985.''

§ 114. Limitation on State income taxation of certain pension income

(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

(b) For purposes of this section—

(1) The term ''retirement income'' means any income from—

(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

(B) a simplified employee pension as defined in section 408(k) of such Code;

(C) an annuity plan described in section 403(a) of such Code;

(D) an annuity contract described in section 403(b) of such Code;

(E) an individual retirement plan described in section 7701(a)(37) of such Code;

(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

(G) a governmental plan (as defined in section 414(d) of such Code);

(H) a trust described in section 501(c)(18) of such Code; or

(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code (or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins), if such income—

(i) is part of a series of substantially equal periodic payments (not less frequently than annually which may include income described in subparagraphs (A) through (H)) made for—

(I) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

(II) a period of not less than 10 years, or

(ii) is a payment received after termination of employment and under a plan, program, or arrangement (to which such employment relates) maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by 1 or more of sections 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of such Code or any other limitation on contributions or benefits in such Code on plans to which any of such sections apply.

The fact that payments may be adjusted from time to time pursuant to such plan,

program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic payments provided under such plan, program, or arrangement to fail the ''substantially equal periodic payments'' test.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

(2) The term ''income tax'' has the meaning given such term by section 110(c).

(3) The term ''State'' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

(4) For purposes of this section, the term ''retired partner'' is an individual who is described as a partner in section 7701(a)(2) of the Internal Revenue Code of 1986 and who is retired under such individual's partnership agreement.

(e)[1] Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 104–95, §1(a), Jan. 10, 1996, 109 Stat. 979; amended Pub. L. 109–264, §1(a), Aug. 3, 2006, 120 Stat. 667.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), (4), is classified generally to Title 26, Internal Revenue Code.

Section 514 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (e), is classified to section 1144 of Title 29, Labor.

AMENDMENTS

2006—Subsec. (b)(1)(I). Pub. L. 109–264, §1(a)(1)–(3), inserted ''(or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins)'' after ''section 3121(v)(2)(C) of such Code'' in introductory provisions, ''which may include income described in subparagraphs (A) through (H)'' after ''(not less frequently than annually'' in cl. (i), and concluding provisions at end.

Subsec. (b)(4). Pub. L. 109–264, §1(a)(4), which directed the addition of par. (4) at end of subsec. (b)(1)(I), was executed by adding par. (4) at end of subsec. (b) to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–264, §1(b), Aug. 3, 2006, 120 Stat. 667, provided that: ''The amendments made by this section [amending this section] apply to amounts received after December 31, 1995.''

EFFECTIVE DATE

Pub. L. 104–95, §1(c), Jan. 10, 1996, 109 Stat. 980, provided that: ''The amendments made by this section [enacting this section] shall apply to amounts received after December 31, 1995.''

§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

(Added Pub. L. 105–261, div. A, title X, §1075(a)(1), Oct. 17, 1998, 112 Stat. 2138.)

EFFECTIVE DATE

Pub. L. 105–261, div. A, title X, §1075(a)(3), Oct. 17, 1998, 112 Stat. 2138, provided that: ''The amendments made by this subsection [enacting this section] shall apply to pay and compensation paid after the date of the enactment of this Act [Oct. 17, 1998].''

§ 116. Rules for determining State and local government treatment of charges related to mobile telecommunications services

(a) APPLICATION OF THIS SECTION THROUGH SECTION 126.—This section through[1] 126 of this title apply to any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

(b) GENERAL EXCEPTIONS.—This section through[1] 126 of this title do not apply to—

(1) any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of mobile telecommunications service;

(2) any tax, charge, or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis;

(3) any tax, charge, or fee that represents compensation for a mobile telecommunications service provider's use of public rights of way or other public property, provided that such tax, charge, or fee is not levied by the taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunication services;

(4) any generally applicable business and occupation tax that is imposed by a State, is applied to gross receipts or gross proceeds, is the legal liability of the home service provider, and that statutorily allows the home service provider to elect to use the sourcing method required in this section through[1] 126 of this title;

(5) any fee related to obligations under section 254 of the Communications Act of 1934; or

(6) any tax, charge, or fee imposed by the Federal Communications Commission.

(c) SPECIFIC EXCEPTIONS.—This section through[1] 126 of this title—

(1) do not apply to the determination of the taxing situs of prepaid telephone calling services;

(2) do not affect the taxability of either the initial sale of mobile telecommunications services or subsequent resale of such services, whether as sales of such services alone or as a part of a bundled product, if the Internet Tax Freedom Act would preclude a taxing jurisdiction from subjecting the charges of the sale of

[1] So in original. No subsecs. (c) and (d) have been enacted.

[1] So in original. Probably should be followed by ''section''.