

(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed the maximum amount which would be allowable under paragraph (3) of section 5384(b) if such paragraph were applied by substituting "the Internal Revenue Service" for "an agency". The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 713; amended Pub. L. 107-217, §3(a)(2), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 108-7, div. J, title VI, §645(a), Feb. 20, 2003, 117 Stat. 474; Pub. L. 110-161, div. D, title I, §106, Dec. 26, 2007, 121 Stat. 1977; Pub. L. 113-6, div. F, title III, §1309, Mar. 26, 2013, 127 Stat. 418.)

#### REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of this title, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

#### AMENDMENTS

2013—Subsec. (a). Pub. L. 113-6 substituted "Before September 30, 2013" for "Before July 23, 2013".

2007—Subsec. (a). Pub. L. 110-161 substituted "Before July 23, 2013" for "For a period of 10 years after the date of enactment of this section".

2003—Subsec. (d). Pub. L. 108-7 substituted "Such amount may not exceed the maximum amount which would be allowable under paragraph (3) of section 5384(b) if such paragraph were applied by substituting 'the Internal Revenue Service' for 'an agency'." for "Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year."

2002—Subsec. (b). Pub. L. 107-217 substituted "subtitle III of title 40" for "division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679)".

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-7, div. J, title VI, §645(b), Feb. 20, 2003, 117 Stat. 474, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning after September 30, 2002."

#### § 9506. Limited appointments to career reserved Senior Executive Service positions

(a) In the application of section 3132, a "career reserved position" in the Internal Revenue Service

means a position designated under section 3132(b) which may be filled only by—

- (1) a career appointee; or
- (2) a limited emergency appointee or a limited term appointee—

(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

(2) Notwithstanding section 3132—

(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

(B) such an appointee may serve—

(i) two such terms; or

(ii) two such terms in addition to any unexpired term applicable at the time of appointment.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 714.)

#### § 9507. Streamlined demonstration project authority

(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

(1) section 4703(b)(1) shall be deemed to read as follows:

"(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;"

(2) section 4703(b)(3) shall not apply;

(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

(4) section 4703(b)(6) shall be deemed to read as follows:

"(6) provides each House of Congress with the final version of the plan.";

(5) section 4703(c)(1) shall be deemed to read as follows:

"(1) subchapter V of chapter 63 or subpart G of part III of this title;"

(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of

Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 715.)

**§ 9508. General workforce performance management system**

(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury shall, within 1 year after the date of enactment of this section, establish for the Internal Revenue Service a performance management system that—

(1) maintains individual accountability by—

(A) establishing one or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking one or more of the following actions:

- (i) Reassignment.
- (ii) An action under chapter 43 or chapter 75 of this title.
- (iii) Any other appropriate action to resolve the performance problem; and

(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, subtitle III of title 40, Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

(b)(1) For purposes of subsection (a)(2), the term "performance assessment" means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

(2) For purposes of this title, the term "unacceptable performance" with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, "30 days" may be deemed to be "15 days".

(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 715; amended Pub. L. 107-217, §3(a)(3), Aug. 21, 2002, 116 Stat. 1295.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 105-206, which was approved July 22, 1998.

Section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, referred to in subsec. (a)(2), is section 1204 of Pub. L. 105-206, which is set out as a note under section 7804 of Title 26, Internal Revenue Code.

The Government Performance and Results Act of 1993, referred to in subsec. (a)(2)(A), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of this title, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2002—Subsec. (a)(2)(A). Pub. L. 107-217 substituted "subtitle III of title 40" for "division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679)".

**§ 9509. General workforce classification and pay**

(a) For purposes of this section, the term "broad-banded system" means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in one or more occupational series.

(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.