

following May 1959, see section 202 of Pub. L. 86-28, set out as a note under section 3201 of this title.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 31, 1954, effective as if enacted as a part of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], see section 407 of act Aug. 31, 1954, as amended, set out as a note under section 3201 of this title.

#### SEPARABILITY

Pub. L. 91-215, §9, Mar. 17, 1970, 84 Stat. 72, provided that: "If any provision of this Act [amending this section, section 3221 of this title, and sections 228c and 228o of Title 45, Railroads, enacting provisions set out as notes under section 3221 of this title and sections 228c and 228o of Title 45, and amending provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby."

#### PENALTIES AND INTEREST NOT ASSESSED FOR FAILURE TO MAKE TIMELY PAYMENT DURING PERIOD JANUARY 1, 1982, TO JUNE 30, 1982, OF TAXES ATTRIBUTABLE TO AMENDMENTS BY PUB. L. 97-123

For provision that no penalties or interest shall be assessed on account of any failure to make timely payment of taxes imposed by this section with respect to payments made for the period Jan. 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to section 3 of Pub. L. 97-123 or the amendments made by that section, see section 3(f) of Pub. L. 97-123, set out as a note under section 3101 of this title.

### § 3212. Determination of compensation

The compensation of an employee representative for the purpose of ascertaining the tax thereon shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in section 3231(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 432.)

#### Subchapter C—Tax on Employers

Sec.  
3221. Rate of tax.

### § 3221. Rate of tax

#### (a) Tier 1 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of compensation paid during any calendar year by such employer for services rendered to such employer. For purposes of the preceding sentence, the term "applicable percentage" means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year.

#### (b) Tier 2 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the percentage determined under section 3241 for any calendar year of the compensation paid during such calendar year by such employer for services rendered to such employer.

### (c) Cross reference

**For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).**

(Aug. 16, 1954, ch. 736, 68A Stat. 433; Aug. 31, 1954, ch. 1164, pt. II, §206(a), 68 Stat. 1040; Pub. L. 86-28, pt. II, §201(d), May 19, 1959, 73 Stat. 29; Pub. L. 88-133, title II, §202, Oct. 5, 1963, 77 Stat. 221; Pub. L. 89-97, title I, §§105(b)(3), 111(c)(3), July 30, 1965, 79 Stat. 335, 342; Pub. L. 89-212, §§4, 5(c), Sept. 29, 1965, 79 Stat. 861, 862; Pub. L. 89-699, title III, §301(c), (e), Oct. 30, 1966, 80 Stat. 1078; Pub. L. 89-700, title III, §§301(iii), (v), (vi), 302, Oct. 30, 1966, 80 Stat. 1088, 1089; Pub. L. 91-215, §5(a), (b)(1), Mar. 17, 1970, 84 Stat. 71; Pub. L. 93-69, title I, §102(d)-(f), July 10, 1973, 87 Stat. 162, 163; Pub. L. 93-445, title V, §501, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-93, title II, §203, Aug. 9, 1975, 89 Stat. 466; Pub. L. 94-455, title XIX, §§1903(a)(9), 1906(b)(13)(G), Oct. 4, 1976, 90 Stat. 1808, 1835; Pub. L. 97-34, title VII, §741(c), Aug. 13, 1981, 95 Stat. 347; Pub. L. 98-76, title II, §§211(b), 222, Aug. 12, 1983, 97 Stat. 419, 420; Pub. L. 100-203, title IX, §9032(a), Dec. 22, 1987, 101 Stat. 1330-296; Pub. L. 101-508, title V, §5125(c), Nov. 5, 1990, 104 Stat. 1388-286; Pub. L. 107-90, title II, §§203(b), 204(a), Dec. 21, 2001, 115 Stat. 891; Pub. L. 111-147, title I, §101(d)(1), Mar. 18, 2010, 124 Stat. 74; Pub. L. 113-295, div. A, title II, §221(a)(100)(C), Dec. 19, 2014, 128 Stat. 4052; Pub. L. 115-141, div. U, title IV, §401(b)(36), Mar. 23, 2018, 132 Stat. 1204.)

#### AMENDMENTS

2018—Subsecs. (c), (d). Pub. L. 115-141 redesignated subsec. (d) as (c) and struck out former subsec. (c) which provided for a special rate for certain individuals hired in 2010.

2014—Subsec. (b). Pub. L. 113-295 amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) and (2) establishing the tier 2 tax and its applicable percentage.

2010—Subsecs. (c), (d). Pub. L. 111-147 added subsec. (c) and redesignated former subsec. (c) as (d).

2001—Subsec. (b). Pub. L. 107-90, §204(a), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer."

Subsecs. (c) to (e). Pub. L. 107-90, §203(b), redesignated subsec. (e) as (c) and struck out former subsections. (c) and (d) which provided, in subsec. (c), for imposition of excise tax on every employer, with respect to having individuals in his employ, for each man-hour for which compensation was paid by such employer for services rendered to him during any calendar quarter, and for credit against such tax of amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer, and, in subsec. (d), that such tax would not apply to an employer with respect to employees covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees.

1990—Subsec. (a). Pub. L. 101-508 substituted "applicable" for "following" before "percentage of" and provision defining "applicable percentage" for provision specifying the tax rate to be 7.05 percent, 7.15 percent, 7.51 percent, and 7.65 percent in the case of compensation paid during 1985, 1986 or 1987, 1988 or 1989, or 1990 or thereafter, respectively.