

SUBCHAPTER III—APPOINTMENTS

§ 3941. General provisions

(a) Citizenship requirement

Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) Examinations

The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) Veteran or disabled veteran

The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term “veteran or disabled veteran” means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5.

(d) Career and noncareer appointments

(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.

(Pub. L. 96-465, title I, § 301, Oct. 17, 1980, 94 Stat. 2083; Pub. L. 100-204, title I, § 179(a), Dec. 22, 1987, 101 Stat. 1362.)

Editorial Notes

AMENDMENTS

1987—Subsec. (d)(3). Pub. L. 100-204 inserted sentence at end relating to exemption from income taxation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, § 179(b), Dec. 22, 1987, 101 Stat. 1363, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to tax years beginning after December 31, 1987.”

STUDY OF FOREIGN SERVICE EXAMINATION

Pub. L. 101-246, title I, § 153(g), Feb. 16, 1990, 104 Stat. 44, required the Secretary of State to enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination related to cultural, racial, ethnic, and sexual bias issues, and no later than 18 months after Feb. 16, 1990, submit a report to Congress containing the findings of

the review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review.

§ 3942. Appointments by the President

(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under subchapter V and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV, and to receive the leave to which such member