

title and sections 504, 1106, 1107, and 1108 of Title 42, The Public Health and Welfare, repealing section 8524 of Title 5, Government Organization and Employees, and amending sections 1563, 3301 to 3306, and 6157 of this title, sections 77c and 78c of Title 15, Commerce and Trade, and sections 1101, 1102, 1103, 1105, and 1323 of Title 42, and enacting provisions set out as notes under sections 3301 to 3304, 3306, and 6157 of this title, section 77c of Title 15, and section 1101 of Title 42] may be cited as the ‘Employment Security Amendments of 1970.’

**CHAPTER 23A—RAILROAD UNEMPLOYMENT REPAYMENT TAX**

Sec. 3321. 3322.	Imposition of tax. Definitions.
------------------------	------------------------------------

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11704(a)(18), Nov. 5, 1990, 104 Stat. 1388-519, substituted ‘‘23A—’’ for ‘‘23A.’’ in chapter heading.

1988—Pub. L. 100-647, title VII, §7106(a), Nov. 10, 1988, 102 Stat. 3772, reenacted chapter heading and item 3321 without change, substituted ‘‘Definitions’’ for ‘‘Taxable period’’ in item 3322, and omitted item 3323 ‘‘Other definitions’’.

**§ 3321. Imposition of tax**

**(a) General rule**

There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

**(b) Tax on employee representatives**

**(1) In general**

There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

**(2) Determination of wages**

The rail wages of an employee representative for purposes of paragraph (1) 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 a rail employer.

**(c) Termination if loans to railroad unemployment fund repaid**

The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

- (1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and
- (2) no unpaid interest on such transfers.

(Added Pub. L. 98-76, title II, §231(a), Aug. 12, 1983, 97 Stat. 426; amended Pub. L. 99-272, title XIII, §13301(a), Apr. 7, 1986, 100 Stat. 325; Pub. L. 100-647, title I, §1018(u)(17), title VIII, §7106(a), Nov. 10, 1988, 102 Stat. 3590, 3772.)

REFERENCES IN TEXT

Section 10(d) of the Railroad Unemployment Insurance Act, referred to in subsec. (c)(1), is classified to section 360(d) of Title 45, Railroads.

AMENDMENTS

1988—Pub. L. 100-647, §7106(a), amended section generally, revising and restating provisions of subsecs. (a)

and (b) and specifying imposition of 4 percent tax on rail wages rather than a tax based on the ‘‘applicable percentage’’ of rail wages, and in subsec. (c) substituting provisions relating to termination if loans to railroad unemployment fund repaid for provisions relating to rates of tax.

Pub. L. 100-647, §1018(u)(17), added a period at end of par. (4).

1986—Subsec. (c). Pub. L. 99-272 amended subsec. (c) generally. Prior to amendment subsec. (c) read as follows:

‘‘(c) RATE OF TAX.—For purposes of this section—

‘‘(1) FOR TAXABLE PERIOD JULY 1 THROUGH DECEMBER 31, 1986.—The applicable percentage for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, shall be 2 percent.

‘‘(2) SUBSEQUENT TAXABLE PERIODS.—The applicable percentage for any taxable period beginning after 1986 shall be the sum of—

‘‘(A) 2 percent, plus

‘‘(B) 0.3 percent for each preceding taxable period.

In no event shall the applicable percentage exceed 5 percent.’’

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1018(u)(17) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title VII, §7106(d), Nov. 10, 1988, 102 Stat. 3774, provided that: ‘‘The amendments made by this section [amending this section and sections 3322, 6157, 6201, 6317, 6513, and 6601 of this title, omitting section 3323 of this title, and amending provisions set out as a note under section 231n of Title 45, Railroads], and the provisions of subsection (b) [set out below], shall apply to remuneration paid after December 31, 1988.’’

EFFECTIVE DATE

Pub. L. 98-76, title II, §231(d), Aug. 12, 1983, 97 Stat. 429, provided that: ‘‘The amendments made by this section [enacting this chapter and amending sections 6157, 6201, 6317, 6513, and 6601 of this title] shall apply to remuneration paid after June 30, 1986.’’

CONTINUATION OF SURTAX RATE THROUGH 1990

Pub. L. 100-647, title VII, §7106(b), Nov. 10, 1988, 102 Stat. 3773, provided that:

‘‘(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1991—

‘‘(A) there shall be substituted for ‘4 percent’ in subsections (a) and (b) of section 3321 of the 1986 Code the percentage equal to the sum of—

‘‘(i) 4 percent, plus

‘‘(ii) the surtax rate (if any) for such calendar month, and

‘‘(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

‘‘(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

‘‘(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act [45 U.S.C. 360(d)], and

‘‘(B) zero for any other calendar month.’’

**§ 3322. Definitions**

**(a) Rail employer**

For purposes of this chapter, the term ‘‘rail employer’’ means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.