

subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

§ 3404. Return and payment by governmental employer

If the employer is the United States, or a State, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

(Aug. 16, 1954, ch. 736, 68A Stat. 469; Pub. L. 94-455, title XIX, §1903(c), Oct. 4, 1976, 90 Stat. 1810.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “Territory” after “or a State” and “of such State”.

§ 3405. Special rules for pensions, annuities, and certain other deferred income

(a) Periodic payments

(1) Withholding as if payment were wages

The payor of any periodic payment (as defined in subsection (e)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

(2) Election of no withholding

An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

(3) When election takes effect

Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding allowance certificates.

(4) Amount withheld where no withholding allowance certificate in effect

In the case of any payment with respect to which a withholding allowance certificate is not in effect, the amount withheld under paragraph (1) shall be determined under rules prescribed by the Secretary.

(b) Nonperiodic distribution

(1) Withholding

The payor of any nonperiodic distribution (as defined in subsection (e)(3)) shall withhold from such distribution an amount equal to 10 percent of such distribution.

(2) Election of no withholding

(A) In general

An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

(B) Scope of election

An election under subparagraph (A)—

(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

(c) Eligible rollover distributions

(1) In general

In the case of any designated distribution which is an eligible rollover distribution—

(A) subsections (a) and (b) shall not apply, and

(B) the payor of such distribution shall withhold from such distribution an amount equal to 20 percent of such distribution.

(2) Exception

Paragraph (1)(B) shall not apply to any distribution if the distributee elects under section 401(a)(31)(A) to have such distribution paid directly to an eligible retirement plan.

(3) Eligible rollover distribution

For purposes of this subsection, the term “eligible rollover distribution” has the meaning given such term by section 402(f)(2)(A).

(d) Liability for withholding

(1) In general

Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (e)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

(2) Plan administrator liable in certain cases

(A) In general

In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

(i) directs the payor to withhold such tax, and

(ii) provides the payor with such information as the Secretary may require by regulations.

(B) Plans to which paragraph applies

This paragraph applies to any plan described in, or which at any time has been determined to be described in—

(i) section 401(a),

(ii) section 403(a),

(iii) section 301(d) of the Tax Reduction Act of 1975, or

(iv) section 457(b) and which is maintained by an eligible employer described in section 457(e)(1)(A).

(e) Definitions and special rules

For purposes of this section—

(1) Designated distribution

(A) In general

Except as provided in subparagraph (B), the term “designated distribution” means any distribution or payment from or under—