

(Added Pub. L. 101-508, title XI, §11602(a), Nov. 5, 1990, 104 Stat. 1388-498; amended Pub. L. 104-188, title I, §1702(f)(3)(C), Aug. 20, 1996, 110 Stat. 1871.)

Editorial Notes

AMENDMENTS

1996—Subsec. (c)(3). Pub. L. 104-188 substituted “section 2701(e)(3)” for “section 2701(e)(3)(A)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES

Sec.

2801. Imposition of tax.

§ 2801. Imposition of tax

(a) In general

If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

- (1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt, and
- (2) the value of such covered gift or bequest.

(b) Tax to be paid by recipient

The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

(c) Exception for certain gifts

Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds the dollar amount in effect under section 2503(b) for such calendar year.

(d) Tax reduced by foreign gift or estate tax

The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

(e) Covered gift or bequest

(1) In general

For purposes of this chapter, the term “covered gift or bequest” means—

(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate, and

(B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

(2) Exceptions for transfers otherwise subject to estate or gift tax

Such term shall not include—

(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and

(B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

(3) Exceptions for transfers to spouse or charity

Such term shall not include any property with respect to which a deduction would be allowed under section 2055, 2056, 2522, or 2523, whichever is appropriate, if the decedent or donor were a United States person.

(4) Transfers in trust

(A) Domestic trusts

In the case of a covered gift or bequest made to a domestic trust—

(i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and

(ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

(B) Foreign trusts

(i) In general

In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest.

(ii) Deduction for tax paid by recipient

There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

(iii) Election to be treated as domestic trust

Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust. Such an election may be revoked with the consent of the Secretary.

(f) Covered expatriate

For purposes of this section, the term “covered expatriate” has the meaning given to such term by section 877A(g)(1).

(Added Pub. L. 110-245, title III, §301(b)(1), June 17, 2008, 122 Stat. 1644; amended Pub. L. 113-295, div. A, title II, §206(b)(1), Dec. 19, 2014, 128 Stat. 4027.)

Editorial Notes

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-295 struck out “(or, if greater, the highest rate of tax specified in the table applicable under section 2502(a) as in effect on the date)” after “such receipt”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provisions of the Tax Relief, Unemployment In-

insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111-312, to which such amendment relates, see section 206(d) of Pub. L. 113-295, set out as a note under section 32 of this title.

EFFECTIVE DATE

Pub. L. 110-245, title III, § 301(g), June 17, 2008, 122 Stat. 1647, provided that:

“(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [enacting this chapter and section 877A of this title and amending sections 877, 6039G, and 7701 of this title] shall apply to any individual whose expatriation date (as so defined) is on or after the date of the enactment of this Act [June 17, 2008].

“(2) GIFTS AND BEQUESTS.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the enactment of this Act from transferors (or from the estates of transferors) whose expatriation date is on or after such date of enactment.”

Subtitle C—Employment Taxes

Chapter		Sec. ¹
21.	Federal insurance contributions act	3101
22.	Railroad retirement tax act	3201
23.	Federal unemployment tax act	3301
23A.	Railroad Unemployment Repayment Tax	3321
24.	Collection of income tax at source on wages	3401
25.	General provisions relating to employment taxes	3501

Editorial Notes

AMENDMENTS

1983—Pub. L. 98-76, title II, § 231(c), Aug. 12, 1983, 97 Stat. 429, added item for chapter 23A.

Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Pub. L. 97-248, title III, §§ 307(b)(1), (6), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the heading of subtitle C is amended to read “Employment Taxes and Collection of Income Tax at Source”, the caption of chapter 24 is amended by striking out “On Wages”, and the caption of chapter 25 is amended by inserting “And Collection Of Income Taxes At Source” after “Employment Taxes”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed 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.

CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

Subchapter		Sec. ¹
A.	Tax on employees	3101
B.	Tax on employers	3111
C.	General provisions	3121
D.	Credits	3131

Editorial Notes

AMENDMENTS

Pub. L. 117-2, title IX, § 9641(c), Mar. 11, 2021, 135 Stat. 171, added item for subchapter D.

¹ Section numbers editorially supplied.

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Subchapter A—Tax on Employees

Sec.	
3101.	Rate of tax.
3102.	Deduction of tax from wages.

§ 3101. Rate of tax

(a) Old-age, survivors, and disability insurance

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to 6.2 percent of the wages (as defined in section 3121(a)) received by the individual with respect to employment (as defined in section 3121(b)).

(b) Hospital insurance

(1) In general

In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to 1.45 percent of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b)).

(2) Additional tax

In addition to the tax imposed by paragraph (1) and the preceding subsection, there is hereby imposed on every taxpayer (other than a corporation, estate, or trust) a tax equal to 0.9 percent of wages which are received with respect to employment (as defined in section 3121(b)) during any taxable year beginning after December 31, 2012, and which are in excess of—

(A) in the case of a joint return, \$250,000,

(B) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under subparagraph (A), and

(C) in any other case, \$200,000.

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(Aug. 16, 1954, ch. 736, 68A Stat. 415; Sept. 1, 1954, ch. 1206, title II, § 208(b), 68 Stat. 1094; Aug. 1, 1956, ch. 836, title II, § 202(b), 70 Stat. 845; Pub. L. 85-840, title IV, § 401(b), Aug. 28, 1958, 72 Stat. 1041; Pub. L. 87-64, title II, § 201(b), June 30, 1961, 75 Stat. 141; Pub. L. 89-97, title I, § 111(c)(5), title III, § 321(b), July 30, 1965, 79 Stat. 342, 395; Pub. L. 90-248, title I, § 109(a)(2), (b)(2), Jan. 2, 1968, 81 Stat. 836; Pub. L. 92-5, title II, § 204(a)(1), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92-336, § 204(a)(2), (b)(2), July 1, 1972, 86 Stat. 421, 422; Pub. L. 92-603, § 135(a)(2), (b)(2), Oct. 30, 1972, 86 Stat. 1362, 1363; Pub. L. 93-233, § 6(a)(1), (b)(2), Dec. 31, 1973, 87 Stat. 954, 955; Pub. L. 94-455, title XIX, § 1903(a)(1), Oct. 4, 1976, 90 Stat. 1806; Pub. L. 95-216, title I, § 101(a)(1), (b)(1), title III, § 317(b)(2), Dec. 20, 1977, 91 Stat. 1510, 1511, 1540; Pub. L. 98-21, title I, § 123(a)(1), Apr. 20, 1983, 97 Stat. 87; Pub. L. 108-203, title IV, § 415, Mar. 2,