

Editorial Notes

REFERENCES IN TEXT

Section 3(40) of Employee Retirement Income Security Act of 1974, referred to in subsec. (c)(2)(F), is classified to section 1002(40) of Title 29, Labor.

AMENDMENTS

2019—Subsec. (e). Pub. L. 116-94 substituted “2029” for “2019”.

§ 4377. Definitions and special rules**(a) Definitions**

For purposes of this subchapter—

(1) Accident and health coverage

The term “accident and health coverage” means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

(2) Insurance policy

The term “insurance policy” means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

(3) United States

The term “United States” includes any possession of the United States.

(b) Treatment of governmental entities**(1) In general**

For purposes of this subchapter—

(A) the term “person” includes any governmental entity, and

(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the fees imposed by this subchapter except as provided in paragraph (2).

(2) Treatment of exempt governmental programs

In the case of an exempt governmental program, no fee shall be imposed under section 4375 or section 4376 on any covered life under such program.

(3) Exempt governmental program defined

For purposes of this subchapter, the term “exempt governmental program” means—

(A) any insurance program established under title XVIII of the Social Security Act,

(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being members of the Armed Forces of the United States or veterans, and

(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

(c) Treatment as tax

For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.

(d) No cover over to possessions

Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.

(Added Pub. L. 111-148, title VI, §6301(e)(2)(A), Mar. 23, 2010, 124 Stat. 746.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3)(A), (B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 4(d) of the Indian Health Care Improvement Act, referred to in subsec. (b)(3)(D), is classified to section 1603(d) of Title 25, Indians.

CHAPTER 35—TAXES ON WAGERING

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Subchapter A—Tax on Wagers

Sec.	
4401.	Imposition of tax.
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4404.	Territorial extent.
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§ 4401. Imposition of tax**(a) Wagers****(1) State authorized wagers**

There shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

(2) Unauthorized wagers

There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager.

(b) Amount of wager

In determining the amount of any wager for the purposes of this subchapter, all charges incident to the placing of such wager shall be included; except that if the taxpayer establishes, in accordance with regulations prescribed by the Secretary, that an amount equal to the tax imposed by this subchapter has been collected as a separate charge from the person placing such wager, the amount so collected shall be excluded.

(c) Persons liable for tax

Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery. Any per-

¹ Section numbers editorially supplied.

son required to register under section 4412 who receives wagers for or on behalf of another person without having registered under section 4412 the name and place of residence of such other person shall be liable for and shall pay the tax under this subchapter on all such wagers received by him.

(Aug. 16, 1954, ch. 736, 68A Stat. 525; Pub. L. 85-859, title I, §151(a), Sept. 2, 1958, 72 Stat. 1304; Pub. L. 93-499, §3(a), Oct. 29, 1974, 88 Stat. 1550; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-362, title I, §109(a), Oct. 25, 1982, 96 Stat. 1731.)

Editorial Notes

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-362 substituted provision that there shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager and that there shall be imposed on any other wager an excise tax equal to 2 percent of the amount of such wager for provision that there be imposed on wagers, as defined in section 4421, an excise tax equal to 2 percent of the amount thereof.

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1974—Subsec. (a). Pub. L. 93-499 substituted “2 percent” for “10 percent”.

1958—Subsec. (c). Pub. L. 85-859 made all persons required to register under section 4412 of this title who receive wagers for or on behalf of another person without having registered under section 4412 of this title the name and place of residence of such other person liable for the tax on all such wagers received by them.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-362, title I, §109(c)(1), Oct. 25, 1982, 96 Stat. 1731, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1983.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-499, §3(d)(1), Oct. 29, 1974, 88 Stat. 1551, provided that: “The amendments made by this section [enacting section 4424 and amending this section and section 4411 of this title] take effect on December 1, 1974, and shall apply only with respect to wagers placed on or after such date.”

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-859, title I, §151(b), Sept. 2, 1958, 72 Stat. 1304, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to wagers received after the date of the enactment of this Act [Sept. 2, 1958].”

§ 4402. Exemptions

No tax shall be imposed by this subchapter—

(1) Parimutuels

On any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law,

(2) Coin-operated devices

On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or

(3) State-conducted lotteries, etc.

On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.

(Aug. 16, 1954, ch. 736, 68A Stat. 525; Pub. L. 85-859, title I, §152(b), Sept. 2, 1958, 72 Stat. 1305; Pub. L. 89-44, title IV, §405(a), title VIII, §813(a), June 21, 1965, 79 Stat. 149, 170; Pub. L. 94-455, title XII, §1208(a), Oct. 4, 1976, 90 Stat. 1709; Pub. L. 95-600, title V, §521(c)(1), Nov. 6, 1978, 92 Stat. 2884.)

Editorial Notes

REFERENCES IN TEXT

Section 4462, referred to in par. (2), was repealed by Pub. L. 95-600, title V, §521(b), Nov. 6, 1978, 92 Stat. 2884.

AMENDMENTS

1978—Par. (2). Pub. L. 95-600 substituted “(as defined in section 4462 as in effect for years beginning before July 1, 1980)” for “with respect to which an occupational tax is imposed by section 4461” and “(as so in effect), or” for “if an occupational tax is imposed with respect to such device by section 4461, or”.

1976—Par. (3). Pub. L. 94-455, among other changes, substituted in heading “State-conducted lotteries, etc.” for “State-conducted sweepstakes.”, and struck out provision that no tax be imposed on any wager placed in a sweepstakes, wagering pool, or lottery in which the ultimate winners are determined by the results of a horse race.

1965—Par. (2). Pub. L. 89-44, §405(a), substituted “section 4462(a)(2),” for “section 4462(a)(2)(B).”

Par. (3). Pub. L. 89-44, §813(a), added par. (3).

1958—Par. (2). Pub. L. 85-859 inserted provisions exempting from the tax amounts paid to operate a device described in section 4462(a)(2)(B), if an occupational tax is imposed with respect to such device by section 4461 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, §521(d)(2), Nov. 6, 1978, 92 Stat. 2885, provided that: “The amendments made by subsections (b) [repealing sections 4461 to 4464 of this title] and (c) [amending this section and section 4901 of this title] shall apply with respect to years beginning after June 30, 1980.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1208(c)(1), Oct. 4, 1976, 90 Stat. 1709, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to wagers placed after March 10, 1964”.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VII, §701(c)(2), June 21, 1965, 79 Stat. 157, provided in part that: “The amendments made by sections 403 [amending sections 4461 and 4462 of this title] (relating to occupational tax on coin-operated devices) and 404 [repealing sections 4471 to 4474] (relating to occupational tax on bowling alleys, billiard and pool tables), and by subsections (a) [amending this section], (b) [amending section 4901 of this title] and (d) [amending section 4914 of this title] of section 405 (relating to technical and conforming changes) shall apply on and after July 1, 1965.”

Pub. L. 89-44, title VIII, §813(b), June 21, 1965, 79 Stat. 170, provided that: “The amendment made by sub-