

(July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–40 applicable to coverage months beginning after Feb. 12, 2011, except that amendment by section 241(b)(2)(B) of Pub. L. 112–40 applicable to certificates issued after the date which is 30 days after Oct. 21, 2011, and amendment by section 241(b)(2)(D) of Pub. L. 112–40 applicable to coverage months beginning after the date which is 30 days after Oct. 21, 2011, see section 241(c) of Pub. L. 112–40, set out as a note under section 35 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 111(b) of Pub. L. 111–344 applicable to coverage months beginning after Dec. 31, 2010, see section 111(c) of Pub. L. 111–344, set out as a note under section 35 of this title.

Pub. L. 111–344, title I, §112(b), Dec. 29, 2010, 124 Stat. 3615, provided that: “The amendment made by this section [amending this section] shall apply to coverage months beginning after December 31, 2010.”

Pub. L. 111–344, title I, §118(b), Dec. 29, 2010, 124 Stat. 3616, provided that: “The amendment made by this section [amending this section] shall apply to certificates issued after December 31, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111–5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111–5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

Amendment by section 1899A(a)(2) of Pub. L. 111–5 applicable to coverage months beginning on or after the first day of the first month beginning 60 days after Feb. 17, 2009, see section 1899A(b) of Pub. L. 111–5, set out as a note under section 35 of this title.

Pub. L. 111–5, div. B, title I, §1899B(b), Feb. 17, 2009, 123 Stat. 424, provided that: “The amendments made by this section [amending this section] shall apply to coverage months beginning after December 31, 2008.”

Pub. L. 111–5, div. B, title I, §1899H(b), Feb. 17, 2009, 123 Stat. 431, provided that: “The amendment made by this section [amending this section] shall apply to certificates issued after the date that is 6 months after the date of the enactment of this Act [Feb. 17, 2009].”

CONSTRUCTION

Nothing in the amendments made by title II of Pub. L. 107–210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating a new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107–210, set out as a note under section 35 of this title.

TRANSITIONAL RULE

Pub. L. 111–5, div. B, title I, §1899B(c), Feb. 17, 2009, 123 Stat. 424, provided that: “The Secretary of the Treasury shall not be required to make any payments under section 7527(e) of the Internal Revenue Code of 1986, as added by this section, until after the date that is 6 months after the date of the enactment of this Act [Feb. 17, 2009].”

§ 7527A. Advance payment of child tax credit

(a) In general

The Secretary shall establish a program for making periodic payments to taxpayers which, in the aggregate during any calendar year, equal the annual advance amount determined with respect to such taxpayer for such calendar year.

Except as provided in subsection (b)(3)(B), the periodic payments made to any taxpayer for any calendar year shall be in equal amounts.

(b) Annual advance amount

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “annual advance amount” means, with respect to any taxpayer for any calendar year, the amount (if any) which is estimated by the Secretary as being equal to 50 percent of the amount which would be treated as allowed under subpart C of part IV of subchapter A of chapter 1 by reason of section 24(i)(1) for the taxpayer’s taxable year beginning in such calendar year if—

(A) the status of the taxpayer as a taxpayer described in section 24(i)(1) is determined with respect to the reference taxable year,

(B) the taxpayer’s modified adjusted gross income for such taxable year is equal to the taxpayer’s modified adjusted gross income for the reference taxable year,

(C) the only children of such taxpayer for such taxable year are qualifying children properly claimed on the taxpayer’s return of tax for the reference taxable year, and

(D) the ages of such children (and the status of such children as qualifying children) are determined for such taxable year by taking into account the passage of time since the reference taxable year.

(2) Reference taxable year

Except as provided in paragraph (3)(A), the term “reference taxable year” means, with respect to any taxpayer for any calendar year, the taxpayer’s taxable year beginning in the preceding calendar year or, in the case of taxpayer who did not file a return of tax for such taxable year, the taxpayer’s taxable year beginning in the second preceding calendar year.

(3) Modifications during calendar year

(A) In general

The Secretary may modify, during any calendar year, the annual advance amount with respect to any taxpayer for such calendar year to take into account—

(i) a return of tax filed by such taxpayer during such calendar year (and the taxable year to which such return relates may be taken into account as the reference taxable year), and

(ii) any other information provided by the taxpayer to the Secretary which allows the Secretary to determine payments under subsection (a) which, in the aggregate during any taxable year of the taxpayer, more closely total the Secretary’s estimate of the amount treated as allowed under subpart C of part IV of subchapter A of chapter 1 by reason of section 24(i)(1) for such taxable year of such taxpayer.

(B) Adjustment to reflect excess or deficit in prior payments

In the case of any modification of the annual advance amount under subparagraph

(A), the Secretary may adjust the amount of any periodic payment made after the date of such modification to properly take into account the amount by which any periodic payment made before such date was greater than or less than the amount that such payment would have been on the basis of the annual advance amount as so modified.

(4) Determination of status

If information contained in the taxpayer's return of tax for the reference taxable year does not establish the status of the taxpayer as being described in section 24(i)(1), the Secretary shall, for purposes of paragraph (1)(A), determine such status based on information known to the Secretary.

(5) Treatment of certain deaths

A child shall not be taken into account in determining the annual advance amount under paragraph (1) if the death of such child is known to the Secretary as of the beginning of the calendar year for which the estimate under such paragraph is made.

(c) On-line information portal

The Secretary shall establish an on-line portal which allows taxpayers to—

(1) elect not to receive payments under this section, and

(2) provide information to the Secretary which would be relevant to a modification under subsection (b)(3)(B) of the annual advance amount, including information regarding—

(A) a change in the number of the taxpayer's qualifying children, including by reason of the birth of a child,

(B) a change in the taxpayer's marital status,

(C) a significant change in the taxpayer's income, and

(D) any other factor which the Secretary may provide.

(d) Notice of payments

Not later than January 31 of the calendar year following any calendar year during which the Secretary makes one or more payments to any taxpayer under this section, the Secretary shall provide such taxpayer with a written notice which includes the taxpayer's taxpayer identity (as defined in section 6103(b)(6)), the aggregate amount of such payments made to such taxpayer during such calendar year, and such other information as the Secretary determines appropriate.

(e) Administrative provisions

(1) Application of electronic funds payment requirement

The payments made by the Secretary under subsection (a) shall be made by electronic funds transfer to the same extent and in the same manner as if such payments were Federal payments not made under this title.

(2) Application of certain rules

Rules similar to the rules of subparagraphs (B) and (C) of section 6428A(f)(3) shall apply for purposes of this section.

(3) Exception from reduction or offset

Any payment made to any individual under this section shall not be—

(A) subject to reduction or offset pursuant to subsection (c), (d), (e), or (f) of section 6402 or any similar authority permitting offset, or

(B) reduced or offset by other assessed Federal taxes that would otherwise be subject to levy or collection.

(4) Application of advance payments in the possessions of the United States

(A) In general

The advance payment amount determined under this section shall be determined—

(i) by applying section 24(i)(1) without regard to the phrase “or is a bona fide resident of Puerto Rico (within the meaning of section 937(a))”, and

(ii) without regard to section 24(k)(3)(C)(ii)(I).

(B) Mirror code possessions

In the case of any possession of the United States with a mirror code tax system (as defined in section 24(k)), this section shall not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have this section be so treated.

(C) Administrative expenses of advance payments

(i) Mirror code possessions

In the case of any possession described in subparagraph (B) which makes the election described in such subparagraph, the amount otherwise paid by the Secretary to such possession under section 24(k)(1)(A) with respect to taxable years beginning in 2021 shall be increased by \$300,000 if such possession has a plan, which has been approved by the Secretary, for making advance payments consistent with such election.

(ii) American Samoa

The amount otherwise paid by the Secretary to American Samoa under subparagraph (A) of section 24(k)(3) with respect to taxable years beginning in 2021 shall be increased by \$300,000 if the plan described in subparagraph (B) of such section includes a program, which has been approved by the Secretary, for making advance payments under rules similar to the rules of this section.

(iii) Timing of payment

The Secretary may pay, upon the request of the possession of the United States to which the payment is to be made, the amount of the increase determined under clause (i) or (ii) immediately upon approval of the plan referred to in such clause, respectively.

(f) Application

No payments shall be made under the program established under subsection (a) with respect to—

(1) any period before July 1, 2021, or

(2) any period after December 31, 2021.

(g) Regulations

The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section and subsections (i)(1) and (j) of section 24, including regulations or other guidance which provides for the application of such provisions where the filing status of the taxpayer for a taxable year is different from the status used for determining the annual advance amount.

(Added Pub. L. 117-2, title IX, §9611(b)(1), Mar. 11, 2021, 135 Stat. 146.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2020, see section 9611(c)(1) of Pub. L. 117-2, set out as an Effective Date of 2021 Amendment note under section 24 of this title.

ESTABLISHMENT OF ADVANCE PAYMENT PROGRAM

Pub. L. 117-2, title IX, §9611(c)(2), Mar. 11, 2021, 135 Stat. 150, provided that: “The Secretary of the Treasury (or the Secretary’s designee) shall establish the program described in section 7527A of the Internal Revenue Code of 1986 as soon as practicable after the date of the enactment of this Act [Mar. 11, 2021], except that the Secretary shall ensure that the timing of the establishment of such program does not interfere with carrying out section 6428B(g) as rapidly as possible.”

§ 7528. Internal Revenue Service user fees

(a) General rule

The Secretary shall establish a program requiring the payment of user fees for—

- (1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and
- (2) other similar requests.

(b) Program criteria

(1) In general

The fees charged under the program required by subsection (a)—

- (A) shall vary according to categories (or subcategories) established by the Secretary,
- (B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and
- (C) shall be payable in advance.

(2) Exemptions, etc.

(A) In general

The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

(B) Exemption for certain requests regarding pension plans

The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

(i) made after the later of—

- (I) the fifth plan year the pension benefit plan is in existence, or
- (II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(C) Definitions and special rules

For purposes of subparagraph (B)—

(i) Pension benefit plan

The term “pension benefit plan” means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(ii) Eligible employer

The term “eligible employer” means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

(iii) Determination of average fees charged

For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

(3) Average fee requirement

The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion ...	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

(4) Certified professional employer organizations

The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall be an annual fee not to exceed \$1,000 per year.

(Added Pub. L. 108-89, title II, §202(a), Oct. 1, 2003, 117 Stat. 1132; amended Pub. L. 108-357, title VIII, §891(a), Oct. 22, 2004, 118 Stat. 1644; Pub. L. 110-28, title VIII, §8244, May 25, 2007, 121 Stat. 200; Pub. L. 113-295, div. B, title II, §206(f), Dec. 19, 2014, 128 Stat. 4071.)

Editorial Notes

AMENDMENTS

- 2014—Subsec. (b)(4). Pub. L. 113-295 added par. (4).
- 2007—Subsec. (c). Pub. L. 110-28 struck out heading and text of subsec. (c). Text read as follows: “No fee shall be imposed under this section with respect to requests made after September 30, 2014.”
- 2004—Subsec. (c). Pub. L. 108-357 substituted “September 30, 2014” for “December 31, 2004”.