

may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, subtitle III of title 40, Revenue Procedure 64-22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed the maximum amount which would be allowable under paragraph (3) of section 5384(b) if such paragraph were applied by substituting "the Internal Revenue Service" for "an agency". The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

(Added Pub. L. 105-206, title I, § 1201(a), July 22, 1998, 112 Stat. 713; amended Pub. L. 107-217, § 3(a)(2), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 108-7, div. J, title VI, § 645(a), Feb. 20, 2003, 117 Stat. 474; Pub. L. 110-161, div. D, title I, § 106, Dec. 26, 2007, 121 Stat. 1977; Pub. L. 113-6, div. F, title III, § 1309, Mar. 26, 2013, 127 Stat. 418.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of this title, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

##### AMENDMENTS

2013—Subsec. (a). Pub. L. 113-6 substituted "Before September 30, 2013" for "Before July 23, 2013".

2007—Subsec. (a). Pub. L. 110-161 substituted "Before July 23, 2013" for "For a period of 10 years after the date of enactment of this section".

2003—Subsec. (d). Pub. L. 108-7 substituted "Such amount may not exceed the maximum amount which

would be allowable under paragraph (3) of section 5384(b) if such paragraph were applied by substituting 'the Internal Revenue Service' for 'an agency'." for "Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year."

2002—Subsec. (b). Pub. L. 107-217 substituted "subtitle III of title 40" for "division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679)".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-7, div. J, title VI, § 645(b), Feb. 20, 2003, 117 Stat. 474, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning after September 30, 2002."

#### § 9506. Limited appointments to career reserved Senior Executive Service positions

(a) In the application of section 3132, a "career reserved position" in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

- (1) a career appointee; or
- (2) a limited emergency appointee or a limited term appointee—

(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

(2) Notwithstanding section 3132—

(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

(B) such an appointee may serve—

- (i) two such terms; or
- (ii) two such terms in addition to any unexpired term applicable at the time of appointment.

(Added Pub. L. 105-206, title I, § 1201(a), July 22, 1998, 112 Stat. 714.)

#### § 9507. Streamlined demonstration project authority

(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

(1) section 4703(b)(1) shall be deemed to read as follows:

"(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;"