

## AMENDMENTS

1984—Pub. L. 98-369 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

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

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

**§ 3502. Nondeductibility of taxes in computing taxable income**

(a) The taxes imposed by section 3101 of chapter 21, and by sections 3201 and 3211 of chapter 22 shall not be allowed as a deduction to the taxpayer in computing taxable income under subtitle A.

(b) The tax deducted and withheld under chapter 24 shall not be allowed as a deduction either to the employer or to the recipient of the income in computing taxable income under subtitle A.

(Aug. 16, 1954, ch. 736, 68A Stat. 471; Sept. 3, 1982, Pub. L. 97-248, title III, §§ 305(b), 308(a), 96 Stat. 588, 591; Aug. 5, 1983, Pub. L. 98-67, title I, § 102(a), 97 Stat. 369.)

## AMENDMENTS

1983—Subsecs. (b), (c). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsecs. (b), (c). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended and a new subsec. (c) is added. 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 L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301-308) of title III of Pub.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.

## CROSS REFERENCES

Credit for amount withheld, see section 31 of this title.

Taxes paid deductible from gross income, see section 164 of this title.

**§ 3503. Erroneous payments**

Any tax paid under chapter 21 or 22 by a taxpayer with respect to any period with respect to which he is not liable to tax under such chapter shall be credited against the tax, if any, imposed by such other chapter upon the taxpayer, and the balance, if any, shall be refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 471.)

## CROSS REFERENCES

Civil action for refund, see section 7422 of this title. Jurisdiction of district courts of actions by taxpayers for refund, see sections 1340 and 1346 of Title 28, Judiciary and Judicial Procedure.

Refund to employer of overpayment of withholding tax, see section 6414 of this title.

**§ 3504. Acts to be performed by agents**

In case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of em-

ployees, employed by one or more employers, the Secretary, under regulations prescribed by him, is authorized to designate such fiduciary, agent, or other person to perform such acts as are required of employers under this title and as the Secretary may specify. Except as may be otherwise prescribed by the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent, or other person so designated but, except as so provided, the employer for whom such fiduciary, agent, or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

(Aug. 16, 1954, ch. 736, 68A Stat. 471; Sept. 2, 1958, Pub. L. 85-866, title I, § 71, 72 Stat. 1660; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834.)

## AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in three places.

1958—Pub. L. 85-866 substituted “title” for “subtitle” in first sentence.

## EFFECTIVE DATE OF 1958 AMENDMENT

Section 71 of Pub. L. 85-866 provided that the amendment made by that section is effective with respect to remuneration paid after Dec. 31, 1954.

**§ 3505. Liability of third parties paying or providing for wages****(a) Direct payment by third parties**

For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

**(b) Personal liability where funds are supplied**

If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(i)(1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

**(c) Effect of payment**

Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.