

**CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT**

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**Subchapter A—Tax on Employees**

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**§ 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 the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

|   |                           |
|---|---------------------------|
| <b>In cases of wages received during:</b> | <b>The rate shall be:</b> |
| 1984, 1985, 1986, or 1987 .....           | 5.7 percent               |
| 1988 or 1989 .....                        | 6.06 percent              |
| 1990 or thereafter .....                  | 6.2 percent.              |

**(b) Hospital insurance**

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

- (1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;
- (2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;
- (3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent;
- (4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent;
- (5) with respect to wages received during the calendar year 1985, the rate shall be 1.35 percent; and
- (6) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent.

**(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, 2004, 118 Stat. 530; Pub. L. 111-148, title IX, §9015(a)(1), title X, §10906(a), Mar. 23, 2010, 124 Stat. 870, 1020; Pub. L. 111-152, title I, §1402(b)(1)(A), Mar. 30, 2010, 124 Stat. 1063.)

AMENDMENT OF SUBSECTION (b)

*Pub. L. 111-152, title I, §1402(b)(1)(A), (3), Mar. 30, 2010, 124 Stat. 1063, provided that, applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, subsection (b)(2) of this section, as added and amended by sections 9015 and 10906 of Pub. L. 111-148, is amended by striking “and” at the end of subparagraph (A), redesignating subparagraph (B) as (C), and adding after subparagraph (A) the following new subparagraph: “(B) in the case of a married taxpayer (as defined in section 7703) filing a separate return, 1/2 of the dollar amount determined under subparagraph (A), and”.*

*Pub. L. 111-148, title X, §10906(a), (c), Mar. 23, 2010, 124 Stat. 1020, provided that, applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, subsection (b)(2) of this section, as added by section 9015(a)(1) of Pub. L. 111-148, is amended by striking “0.5 percent” and inserting “0.9 percent”.*

*Pub. L. 111-148, title IX, §9015(a)(1), (c), Mar. 23, 2010, 124 Stat. 870, 872, provided that, applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, subsection (b) of this section is amended (1) by inserting “(1) In general” before “In addition”; (2) by striking “the following percentages of the” and inserting “1.45 percent of the”; (3) by striking “(as defined in section 3121(b))—” and all that follows and inserting “(as defined in section 3121(b)).”; and (4) by adding at the end a new paragraph (2), to read as follows:*

*(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 0.5 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, and*
- (B) in any other case, \$200,000.*

REFERENCES IN TEXT

Section 233 of the Social Security Act, referred to in subsec. (c), is classified to section 433 of Title 42, The Public Health and Welfare.

<sup>1</sup> Section numbers editorially supplied.

## AMENDMENTS

2004—Subsec. (c). Pub. L. 108-203 substituted “exclusively to the laws applicable to” for “to taxes or contributions for similar purposes under”.

1983—Subsec. (a). Pub. L. 98-21 substituted table of rates for former pars. (1) to (7) which had imposed a tax on the income of every individual (1) with respect to wages received during the calendar years 1974 through 1977 at the rate of 4.95 percent; (2) with respect to wages received during the calendar year 1978 at the rate of 5.05 percent; (3) with respect to wages received during the calendar years 1979 and 1980 at the rate of 5.08 percent; (4) with respect to wages received during the calendar year 1981 at the rate of 5.35 percent; (5) with respect to wages received during the calendar years 1982 through 1984 at the rate of 5.40 percent; (6) with respect to wages received during the calendar years 1985 through 1989 at the rate of 5.70 percent; and (7) with respect to wages received after Dec. 31, 1989, at the rate of 6.20 percent.

1977—Subsec. (a). Pub. L. 95-216, §101(a)(1), substituted “1974 through 1977” for “1974 through 2010” in par. (1), substituted “wages received during the calendar year 1978, the rate shall be 5.05 percent” for “wages received after December 31, 2010, the rate shall be 5.95 percent” in par. (2), and added pars. (3) to (7).

Subsec. (b). Pub. L. 95-216, §101(b)(1), substituted “wages received during the calendar year 1978, the rate shall be 1.00 percent” for “wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent” in par. (2), substituted “wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent” for “wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent”, in par. (3), substituted “wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent” for “wages received after December 31, 1985, the rate shall be 1.50 percent” in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95-216, §317(b)(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-455, §1903(a)(1)(A), redesignated pars. (5) and (6) as (1) and (2), respectively. Former pars. (1) to (4), which related to a tax rate of 3.8 percent with respect to wages received during the calendar year 1968, a tax rate of 4.2 percent with respect to wages received during the calendar years 1969 and 1970, a tax rate of 4.6 percent with respect to wages received during the calendar years 1971 and 1972, and a tax rate of 4.85 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

Subsec. (b). Pub. L. 94-455, §1903(a)(1)(B), redesignated pars. (3) to (6) as (1) to (4), respectively. Former pars. (1) and (2), which related to a tax rate of .60 percent with respect to wages received during the calendar years 1968, 1969, 1970, 1971, and 1972 and a tax rate of 1.0 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

1973—Subsec. (a)(4). Pub. L. 93-233, §6(a)(1), struck out provision for application of 4.85 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (a)(5). Pub. L. 93-233, §6(a)(1), increased rate of tax from 4.80 percent to 4.95 percent and substituted calendar year “1974” for “1978” as the initial year for application of such rate.

Subsec. (a)(6). Pub. L. 93-233, §6(a)(1), increased rate of tax from 5.85 percent to 5.95 percent.

Subsec. (b)(2). Pub. L. 93-233, §6(b)(2), struck out provision for application of 1.0 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (b)(3). Pub. L. 93-233, §6(b)(2), incorporated former provision of par. (2) for taxation of wages received during calendar years 1974, 1975, 1976, and 1977, decreased the applicable rate of tax from 1.0 percent to 0.90 percent, and struck out provision for 1.25 percent rate of tax for calendar years 1978, 1979, 1980.

Subsec. (b)(4). Pub. L. 93-233, §6(b)(2), incorporated former provision of par. (3) for taxation of wages re-

ceived during calendar years 1978, 1979, and 1980, decreased the applicable rate of tax from 1.25 percent to 1.10 percent, and struck out provision for 1.35 percent rate of tax for calendar years 1981, 1982, 1983, 1984, and 1985.

Subsec. (b)(5). Pub. L. 93-233, §6(b)(2), incorporated former provision of par. (4) for taxation of wages received during calendar years 1981 through 1985 at applicable 1.35 percent rate of tax and struck out provision for 1.45 percent rate of tax for wages received after Dec. 31, 1985.

Subsec. (b)(6). Pub. L. 93-233, §6(b)(2), incorporated former provision of par. (5) for taxation of wages received after Dec. 31, 1985 and increased the applicable rate of tax from 1.45 to 1.50 percent.

1972—Subsec. (a)(3). Pub. L. 92-603, §135(a)(2)(A), substituted “the calendar years 1971 and 1972” for “any of the calendar years 1971 through 1977”.

Subsec. (a)(3) to (5). Pub. L. 92-336, §204(a)(2), substituted “any of the calendar years 1971 through 1977” for “the calendar years 1971 and 1972” in par. (3), “any of the calendar years 1978 through 2010” for “the calendar years 1973, 1974, and 1975” and “4.5” for “5.0” in par. (4), and “December 31, 2010” for “December 31, 1975” and “5.35” for “5.15” in par. (5).

Subsec. (a)(4). Pub. L. 92-603, §135(a)(2)(B), substituted “wages received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;” for “wages paid during any of the calendar years 1978 through 2010, the rate shall be 4.5 percent; and”.

Subsec. (a)(5). Pub. L. 92-603, §135(a)(2)(B), substituted “wages received during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and” for “wages paid after December 31, 2010, the rate shall be 5.35 percent”.

Subsec. (a)(6). Pub. L. 92-603, §135(a)(2)(B), added par. (6).

Subsec. (b)(2). Pub. L. 92-603, §135(b)(2), increased rate of tax from 0.9 percent to 1.0 percent.

Subsec. (b)(2) to (5). Pub. L. 92-336, §204(b)(2), inserted references to 1976 and 1977 and substituted “0.9” for “0.65” in par. (2), substituted references for the calendar years 1978 through 1985 for references to the calendar years 1976 through 1979 and substituted “1.0” for “0.70” in par. (3), substituted references for the calendar years 1986 through 1992 for references to the calendar years 1980 through 1986 and substituted “1.1” for “0.80” in par. (4), and substituted “1992” for “1986” and “1.2” for “0.90” in par. (5).

Subsec. (b)(3). Pub. L. 92-603, §135(b)(2), substituted “and 1980, the rate shall be 1.25 percent” for “1980, 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.0 percent”.

Subsec. (b)(4). Pub. L. 92-603, §135(b)(2), substituted “1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and” for “1986, 1987, 1988, 1990, 1991, and 1992, the rate shall be 1.1 percent; and”.

Subsec. (b)(5). Pub. L. 92-603, §135(b)(2), substituted “December 31, 1985, the rate shall be 1.45 percent” for “December 31, 1992, the rate shall be 1.2 percent”.

1971—Subsec. (a)(4). Pub. L. 92-5 substituted “with respect to wages received during the calendar years 1973, 1974, and 1975, the rate shall be 5.0 percent; and” for “with respect to wages received after December 31, 1972, the rate shall be 5.0 percent”.

Subsec. (a)(5). Pub. L. 92-5 added par. (5).

1968—Subsec. (a)(1) to (4). Pub. L. 90-248, §109(a)(2), substituted “1968” and “3.8” for “1966” and “3.85” in par. (1) and “1969 and 1970” and “4.2” for “1967 and 1968” and “3.9” in par. (2), struck out reference to calendar years 1969 and 1970 from par. (3) and substituted “4.6” and “4.4”, and substituted “5.0” for “4.85” in par. (4).

Subsec. (b)(1) to (5). Pub. L. 90-248, §109(b)(2), struck out par. (1) provision for employee rate of 0.35 percent of wages received with respect to employment during calendar year 1966, redesignated pars. (2) to (6) as (1) to (5), struck out reference to “1967” in such par. (1) and increased the rate by 0.10 percent to 0.60, 0.65, 0.70, 0.80, and 0.90 in pars. (1) to (5), respectively.

1965—Pub. L. 89-97, §321(b), divided the total tax imposed under the entire section upon income through a tax equal to percentages of wages into two separate

taxes by dividing the section into subsections (a) and (b), with subsection (a) reflecting the tax for old-age, survivors, and disability insurance and subsection (b) reflecting the tax for hospital insurance, but, in the case of subsection (b), without regard to the provisions of section 3121(b)(9) insofar as it relates to employees; increased from 4½ percent to 4.20 percent the rate of total tax imposed by the entire section upon wages received during calendar year 1966 (resulting from a tax of 3.85 percent under subsection (a) and 0.35 percent under subsection (b)), increased from 4½ percent to 4.40 percent the rate of total tax imposed by the entire section upon wages received during calendar year 1967 (resulting from a tax of 3.9 percent under subsection (a) and 0.50 percent under subsection (b)), reduced from 4½ percent to 4.40 percent the rate of total tax imposed by the entire section upon wages received during calendar year 1968, (resulting from a tax of 3.9 percent under subsection (a) and 0.50 percent under subsection (b)), increased from 4½ percent to 4.90 percent the rate for calendar years 1969, 1970, 1971, and 1972 (resulting from a tax of 4.4 percent under subsection (a) and 0.50 percent under subsection (b)), increased from 4½ percent to 5.40 percent the rate for calendar years 1973, 1974, and 1975, (resulting from a tax of 4.85 percent under subsection (a) and 0.55 percent under subsection (b)), increased from 4½ percent to 5.45 percent the rate for calendar years 1976, 1977, 1978, and 1979 (resulting from a tax of 4.85 percent under subsection (a) and 0.60 percent under subsection (b)), increased from 4½ percent to 5.55 percent the rate for calendar years 1980 through 1986 (resulting from a tax of 4.85 percent under subsection (a) and 0.70 percent under subsection (b)), and increased the rate for calendar years after Dec. 31, 1986, to 5.65 percent (resulting from a tax of 4.85 percent under subsection (a) and 0.80 percent under subsection (b)).

Subsection (b). Pub. L. 89-97, §111(c)(5), struck out “, but without regard to the provisions of paragraph (9) thereof insofar as it relates to employees” after “as defined in section 3121(b)”.

1961—Pub. L. 87-64 increased rate of tax for calendar year 1962 from 3 to 3½ percent, calendar years 1963 to 1965, inclusive, from 3½ to 3¾ percent, calendar years 1966 and 1967 from 4 to 4½ percent, calendar year 1968 from 4 to 4¾ percent, and for calendar years after December 31, 1968, from 4½ to 4¾ percent.

1958—Pub. L. 85-840 increased rate of tax by substituting provisions imposing a tax of 2½% for calendar year 1959, 3% for calendar years 1960 to 1962, 3½% for calendar years 1963 to 1965, 4% for calendar years 1966 to 1968, and 4½% for calendar years beginning after Dec. 31, 1968, for provisions which imposed a tax of 2¼% for calendar years 1957 to 1959, 2¾% for calendar years 1960 to 1964, 3¼% for calendar years 1965 to 1969, 3¾% for calendar years 1970 to 1974, and 4¼% for calendar years beginning after Dec. 31, 1974.

1956—Act Aug. 1, 1956, increased rate of tax with respect to wages received during calendar years 1957 to 1959, and for all calendar years thereafter, by one-quarter percent.

1954—Act Sept. 1, 1954, increased the 3¼ percent rate of tax for the calendar year 1970 and subsequent years to 3½ percent for calendar years 1970 to 1974 and 4 percent for 1975 and subsequent years.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable with respect to remuneration received, and taxable years beginning after, Dec. 31, 2012, see section 1402(b)(3) of Pub. L. 111-152, set out as a note under section 1401 of this title.

Amendment by section 9015(a)(1) of Pub. L. 111-148 applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, see section 9015(c) of Pub. L. 111-148, set out as a note under section 164 of this title.

Amendment by section 10906(a) of Pub. L. 111-148 applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, see section 10906(c) of Pub. L. 111-148, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 123(a)(3) of Pub. L. 98-21 provided that: “The amendments made by this subsection [amending this section and section 3111 of this title] shall apply to remuneration paid after December 31, 1983.”

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 applicable with respect to remuneration paid or received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95-216, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 1903(d) of Pub. L. 94-455, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [see Tables for classification of section 1903 of Pub. L. 94-455] shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [section 3201 et seq. of this title] shall apply with respect to compensation paid for services rendered after December 31, 1976.”

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after December 31, 1973, see section 6(c) of Pub. L. 93-233, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92-603 applicable only with respect to remuneration paid after Dec. 31, 1972, see section 135(c) of Pub. L. 92-603, set out as a note under section 1401 of this title.

Amendment by Pub. L. 92-336 applicable only with respect to remuneration paid after December 31, 1972, see section 204(c) of Pub. L. 92-336, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1971 AMENDMENT

Section 204(b) of Pub. L. 92-5 provided that: “The amendments made by subsection (a)(1) [amending this section] shall apply only with respect to taxable years beginning after December 31, 1971. The remaining amendments made by this section [amending section 3111 of this title] shall apply only with respect to remuneration paid after December 31, 1971.”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable only with respect to remuneration paid after Dec. 31, 1967, see section 109(c) of Pub. L. 90-248, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 111(c)(5) of Pub. L. 89-97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act (section 3201 et seq. of this title) provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act (section 3101 et seq. of this title) provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97, set out as an Effective Date note under section 1395i-1 of Title 42, The Public Health and Welfare.

Amendment by section 321(b) of Pub. L. 89-97 applicable with respect to remuneration paid after December 31, 1965, see section 321(d) of Pub. L. 89-97, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-64 applicable with respect to remuneration paid after Dec. 31, 1961, see section

201(d) of Pub. L. 87-64, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85-840 applicable with respect to remuneration paid after Dec. 31, 1958, see section 401(d) of Pub. L. 85-840, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1956 AMENDMENT**

Amendment by act Aug. 1, 1956, applicable with respect to remuneration paid after Dec. 31, 1956, see section 202(d) of such act Aug. 1, 1956, set out as a note under section 1401 of this title.

**TEMPORARY EMPLOYEE PAYROLL TAX CUT**

Notwithstanding any other provision of law, with respect to remuneration received during calendar year 2011, the rate of tax under 26 U.S.C. 3101(a) to be 4.2 percent, see section 601 of Pub. L. 111-312, set out as a note under section 1401 of this title.

**PENALTIES AND INTEREST NOT ASSESSED FOR FAILURE TO MAKE TIMELY PAYMENT DURING PERIOD JANUARY 1, 1982, TO JUNE 30, 1982, OF TAXES ATTRIBUTABLE TO AMENDMENTS BY PUB. L. 97-123**

Pub. L. 97-123, §3(f), Dec. 29, 1981, 95 Stat. 1663; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Notwithstanding any other provision of law, no penalties or interest shall be assessed on account of any failure to make timely payment of taxes, imposed by sections 3101, 3111, 3201(b), 3211, or 3221(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to payments made for the period beginning January 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to this section (or the amendments made by this section) [amending sections 3121 and 3231 of this title and section 409 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 3121 of this title] and that such failure is due to reasonable cause and not to willful neglect."

**REFERENCES TO SOCIAL SECURITY ACT**

Section 402 of act Sept. 1, 1954, as amended by act Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "References in the Internal Revenue Code of 1939 [former Title 26, Internal Revenue Code], the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the Railroad Retirement Act of 1937, as amended [section 231 et seq. of Title 45, Railroads], or any other law of the United States to any section or subdivision of a section of the Social Security Act [section 301 et seq. of Title 42, The Public Health and Welfare] redesignated by this Act shall be deemed to refer to such section or subdivision of a section as so redesignated."

**§ 3102. Deduction of tax from wages**

**(a) Requirement**

The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than the applicable dollar threshold (as defined in section 3121(x)) for such year; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may

deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

**(b) Indemnification of employer**

Every employer required so to deduct the tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

**(c) Special rule for tips**

(1) In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the year) in which the tips were deemed paid, by deducting the amount of the tax from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3101, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the wages of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following year) an amount of money equal to the amount of the excess.

(3) The Secretary may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any calendar year,

(B) to determine the amount to be deducted upon each payment of wages (exclusive of tips) during such year as if the tips so estimated constituted the actual tips so reported, and

(C) to deduct upon any payment of wages (other than tips, but including funds turned