

or an election that is made before the date of enactment of this Act [Oct. 2, 1992]; or

“(B) section 5551(b) of title 5, United States Code, which is attributable to an individual’s being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

“(8) The amendment made by section 2(69) [amending section 8440 of this title] shall be effective as of November 10, 1988.

“(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) [amending sections 5541, 5542, 5544, and 5547 of this title and provisions set out as a note under section 5305 of this title] shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act [Oct. 2, 1992].

“(10) The amendments made by section 2(28) [amending section 5314 of this title] shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

“(11) The amendment made by section 2(49) [amending section 5724 of this title] shall apply with respect to a separation that takes effect on or after the date of enactment of this Act [Oct. 2, 1992].

“(12) The amendment made by section 5(e) [amending section 1441a of Title 12, Banks and Banking] shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act [Oct. 2, 1992].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

#### § 6304. Annual leave; accumulation

(a) Except as provided by subsections (b), (d), (e), (f), and (g) of this section, annual leave provided by section 6303 of this title, which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

(b) Annual leave not used by an employee of the Government of the United States in one of the following classes of employees stationed outside the United States accumulates for use in succeeding years until it totals not more than 45 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year:

(1) Individuals directly recruited or transferred by the Government of the United States from the United States or its territories or possessions including the Commonwealth of Puerto Rico for employment outside the area of recruitment or from which transferred.

(2) Individuals employed locally but—

(A)(i) who were originally recruited from the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment;

(ii) who have been in substantially continuous employment by other agencies of the United States, United States firms, interests, or organizations, international organizations in which the United States participates, or foreign governments; and

(iii) whose conditions of employment provide for their return transportation to the

United States or its territories or possessions including the Commonwealth of Puerto Rico; or

(B)(i) who were at the time of employment temporarily absent, for the purpose of travel or formal study, from the United States, or from their respective places of residence in its territories or possessions including the Commonwealth of Puerto Rico; and

(ii) who, during the temporary absence, have maintained residence in the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment.

(3) Individuals who are not normally residents of the area concerned and who are discharged from service in the armed forces to accept employment with an agency of the Government of the United States.

(c) Annual leave in excess of the amount allowable—

(1) under subsection (a) or (b) of this section which was accumulated under earlier statute; or

(2) under subsection (a) of this section which was accumulated under subsection (b) of this section by an employee who becomes subject to subsection (a) of this section;

remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year, until the employee’s accumulated leave does not exceed the amount allowed under subsection (a) or (b) of this section, as appropriate.

(d)(1) Annual leave which is lost by operation of this section because of—

(A) administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960;

(B) exigencies of the public business when the annual leave was scheduled in advance; or

(C) sickness of the employee when the annual leave was scheduled in advance;

shall be restored to the employee.

(2) Annual leave restored under paragraph (1) of this subsection, or under clause (2) of section 5562(a) of this title, which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management. Leave credited under this paragraph but unused and still available to the employee under the regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(3)(A) For the purpose of this subsection, the closure of, and any realignment with respect to, an installation of the Department of Defense pursuant to the Defense Base Closure and Re-

alignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, the closure of an installation of the Department of Defense in the Republic of Panama in accordance with the Panama Canal Treaty of 1977, and the closure of any other installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).

(B) For the purpose of subparagraph (A), the term “realignment” means a base realignment (as defined in subsection (e)(3) of section 2687 of title 10) that meets the requirements of subsection (a)(2) of such section.

(4)(A) For the purpose of this subsection, service of a Department of Defense emergency essential employee in a combat zone is an exigency of the public business for that employee. Any leave that, by reason of such service, is lost by the employee by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).

(B) As used in subparagraph (A)—

(i) the term “Department of Defense emergency essential employee” means an employee of the Department of Defense who is designated under section 1580 of title 10 as an emergency essential employee; and

(ii) the term “combat zone” has the meaning given such term in section 112(c)(2) of the Internal Revenue Code of 1986.

(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d)(2) of this section because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the rate of basic pay in effect on the date the lump-sum provisions became applicable.

(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in—

(A) a position in the Senior Executive Service;

(B) a position in the Senior Foreign Service;

(C) a position in the Defense Intelligence Senior Executive Service;

(D) a position in the Senior Cryptologic Executive Service;

(E) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(F) a position to which section 5376 applies;

(G) a position designated under section 1607(a) of title 10 as an Intelligence Senior Level position; or

(H)<sup>1</sup> a position in the Library of Congress the compensation for which is set at a rate equal to the annual rate of basic pay payable for positions at level III of the Executive Schedule under section 5314.

(H)<sup>1</sup> a position in the United States Secret Service Uniformed Division at the rank of Deputy Chief, Assistant Chief, or Chief.

(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

(A) “30 days” in subsection (a) shall be deemed to read “90 days”; and

(B) “45 days” in subsection (b) shall be deemed to read “90 days”.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 519; Pub. L. 93-181, § 3, Dec. 14, 1973, 87 Stat. 705; Pub. L. 95-454, title IV, § 410, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1173, 1224; Pub. L. 96-54, § 2(a)(39), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96-465, title II, § 2312(b), Oct. 17, 1980, 94 Stat. 2166; Pub. L. 97-89, title VIII, § 802, Dec. 4, 1981, 95 Stat. 1161; Pub. L. 100-325, § 2(k), May 30, 1988, 102 Stat. 582; Pub. L. 102-378, § 2(53), Oct. 2, 1992, 106 Stat. 1354; Pub. L. 102-484, div. D, title XLIV, § 4434, Oct. 23, 1992, 106 Stat. 2722; Pub. L. 103-337, div. A, title III, § 341(c), div. B, title XXVIII, § 2816(a), Oct. 5, 1994, 108 Stat. 2720, 3056; Pub. L. 103-356, title II, § 201(a), Oct. 13, 1994, 108 Stat. 3411; Pub. L. 105-261, div. A, title XI, § 1105, Oct. 17, 1998, 112 Stat. 2142; Pub. L. 106-65, div. A, title XI, § 1103(a), Oct. 5, 1999, 113 Stat. 776; Pub. L. 110-181, div. A, title XI, § 1112, Jan. 28, 2008, 122 Stat. 360; Pub. L. 111-68, div. A, title I, § 1404(1)-(3), Oct. 1, 2009, 123 Stat. 2038; Pub. L. 111-282, § 2(b), Oct. 15, 2010, 124 Stat. 3038.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 2062(c).	Oct. 30, 1951, ch. 631, § 203(c), 65 Stat. 680. July 2, 1953, ch. 178, § 3(a), 67 Stat. 137.
(b) .....	5 U.S.C. 2602(d).	Oct. 30, 1951, ch. 631, § 203(d), 65 Stat. 680. July 2, 1953, ch. 178, § 3(b), 67 Stat. 137. Sept. 6, 1960, Pub. L. 86-707, § 401 “(d)”, 74 Stat. 799.
(c) .....	5 U.S.C. 2066(a).	Oct. 30, 1951, ch. 631, § 208(a), 65 Stat. 682. July 2, 1953, ch. 178, § 3(c), 67 Stat. 137.

The words “Except as provided by subsection (b) of this section” are added to subsection (a), and the words “Notwithstanding the provisions of subsection (c)” in former section 2062(d) are omitted as unnecessary because of the exception added to subsection (a).

The words “full biweekly pay period” are substituted for “complete biweekly pay period” to conform to section 6303.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (d)(3)(A), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under sec-

<sup>1</sup> So in original. Two subpars. (H) have been enacted.

tion 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

Section 112(c)(2) of the Internal Revenue Code of 1986, referred to in subsec. (d)(4)(B)(ii), is classified to section 112(c)(2) of Title 26, Internal Revenue Code.

#### AMENDMENTS

2010—Subsec. (f)(1)(F). Pub. L. 111-282, §2(b)(1), which directed amendment of subpar. (F) by striking “or” after the semicolon, could not be executed because the word “or” did not appear.

Subsec. (f)(1)(G). Pub. L. 111-282, §2(b)(2), which directed substitution of “; or” for the period, could not be executed because there was no period.

Subsec. (f)(1)(H). Pub. L. 111-282, §2(b)(3), added subpar. (H) relating to a position in the United States Secret Service Uniformed Division.

2009—Subsec. (f)(1)(H). Pub. L. 111-68 added subpar. (H).

2008—Subsec. (f)(1). Pub. L. 110-181 substituted “in—” for “in a position in—” in introductory provisions, inserted “a position in” before “the” in subpars. (A) to (E), struck out “or” at end of subpar. (D), substituted semicolon for period at end of subpar. (E), and added subpars. (F) and (G).

1999—Subsec. (d)(4). Pub. L. 106-65 added par. (4).

1998—Subsec. (d)(3)(A). Pub. L. 105-261 inserted “the closure of an installation of the Department of Defense in the Republic of Panama in accordance with the Panama Canal Treaty of 1977,” after “2687 note) during any period.”

1994—Subsec. (d)(3). Pub. L. 103-337, §2816(a), designated existing provisions as subpar. (A), substituted “closure of, and any realignment with respect to,” for “closure of”, and added subpar. (B).

Pub. L. 103-337, §341(c), substituted “the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation” for “the closure of an installation”.

Subsec. (f). Pub. L. 103-356 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “Annual leave accrued shall not be subject to the limitation on accumulation otherwise imposed by this section if such leave is accrued by an individual while serving in a position in—

“(1) the Senior Executive Service;

“(2) the Senior Foreign Service;

“(3) the Defense Intelligence Senior Executive Service;

“(4) the Senior Cryptologic Executive Service; or

“(5) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”

1992—Subsec. (d)(3). Pub. L. 102-484 added par. (3).

Subsec. (e). Pub. L. 102-378 substituted “date” for “date of” in last sentence.

1988—Subsec. (f)(5). Pub. L. 100-325 added par. (5).

1981—Subsec. (f). Pub. L. 97-89 amended subsec. (f) generally, transferring from former subsec. (g) provisions excepting from the limitation on accumulation otherwise imposed by this section any annual leave accrued by members of the Senior Foreign Service and inserting provisions relating to annual leave accrued by individuals while serving in positions in the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service.

Subsec. (g). Pub. L. 97-89 struck out subsec. (g). Provisions formerly set out in subsec. (g), relating to annual leave accrued by members of the Senior Foreign Service, were incorporated in subsec. (f).

1980—Subsec. (a). Pub. L. 96-465, §2312(b)(1), inserted reference to subsec. (g).

Subsec. (g). Pub. L. 96-465, §2312(b)(2), added subsec. (g).

1979—Subsec. (e). Pub. L. 96-54 substituted “rate of basic pay” for “salary rate”.

1978—Subsec. (a). Pub. L. 95-454, §410(1), inserted reference to subsec. (f).

Subsec. (d)(2). Pub. L. 95-454, §906(a)(2), (3), substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively.

Subsec. (f). Pub. L. 95-454, §410(2), added subsec. (f).

1973—Subsec. (a). Pub. L. 93-181, §3(1), substituted “subsections (b), (d), and (e) of this section” for “subsection (b) of this section”.

Subsecs. (d), (e). Pub. L. 93-181, §3(2), added subsecs. (d) and (e).

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-282 effective on first day of first pay period which begins after Oct. 15, 2010, see section 5 of Pub. L. 111-282, set out as a note under section 5102 of this title.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-68, div. A, title I, §1404(4), Oct. 1, 2009, 123 Stat. 2038, provided that: “The amendments made by subsection (a) [probably means pars. (1) to (3), which amended this section] shall apply with respect to annual leave accrued during pay periods beginning after the date of the enactment of this Act [Oct. 1, 2009].”

#### EFFECTIVE DATE OF 1994 AMENDMENTS

Section 201(a) of Pub. L. 103-356 provided that the amendment made by that section is effective on the first day of the first applicable pay period beginning after Oct. 13, 1994.

Section 2816(b) of Pub. L. 103-337 provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to the restoration of annual leave of employees at military installations undergoing realignment if such leave is lost by operation of section 6304 of title 5, United States Code, on or after the date of the enactment of this Act [Oct. 5, 1994].”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-89 effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 410 of Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

Amendment by section 906(a)(2), (3) of Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### RESTORATION OF ANNUAL LEAVE FOR CERTAIN DEPARTMENT OF DEFENSE EMPLOYEES

Pub. L. 108-136, div. A, title XI, §1114, Nov. 24, 2003, 117 Stat. 1635, provided that:

“(a) RESTORATION OF ANNUAL LEAVE.—During the period October 1, 1992, through December 31, 1997, all employees transferring from a closing or realigning Department of Defense installation or activity as defined under section 6304(d)(3) of title 5, United States Code, to another Department of Defense installation or activity—

“(1) may be deemed eligible by the Secretary of Defense for automatic restoration of forfeited annual

leave under section 6304(d)(3) of title 5, United States Code, during the year of transfer; and

“(2) may be deemed by the Secretary of Defense to have used all forfeited annual leave properly restored under section 6304(d)(3) of title 5, United States Code, within the appropriate time limits, only if such restored annual leave was used by the employee or paid to the employee in the form of a lump sum payment under section 5551(a) of title 5, United States Code, by the last day of the 2001 leave year.

“(b) PAYMENT OF RESTORED ANNUAL LEAVE.—(1) On or after September 23, 1996, all employees transferring from a closing or realigning Department of Defense installation or activity as defined under section 6304(d)(3)(A) of title 5, United States Code, to another Department of Defense installation or activity who, upon transfer, were entitled to payment of a lump sum payment under section 5551(c) of title 5, United States Code, for forfeited annual leave properly restored under section 6304(d)(3) of title 5, United States Code—

“(A) may be paid only for any such restored annual leave currently remaining to their credit at the hourly rate payable on the date of transfer with appropriate back pay interest; and

“(B) shall be deemed paid for all such restored annual leave to which that employee was entitled to payment upon transfer, but subsequently used or was otherwise paid for upon separation.

“(2) This subsection shall take effect on the date of the enactment of this Act [Nov. 24, 2003].”

#### USE OF EXCESS LEAVE

Section 201(b) of Pub. L. 103-356 provided that: “Notwithstanding the amendment made by subsection (a) [amending this section], in the case of an employee who, on the effective date of subsection (a) [see Effective Date of 1994 Amendments note above], is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee’s credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.”

#### LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO FORMER EMPLOYEES

Section 5 of Pub. L. 93-181 provided that where former employees (other than former employees of Post Office Department or United States Postal Service) had accrued annual leave after June 30, 1960, but had not been on the rolls on Dec. 14, 1973, and where annual leave thus accrued had been lost because of administrative error, such accrued annual leave was subject to credit and liquidation by lump-sum payment but only if a claim therefor was filed within three years after Dec. 14, 1973, with agency by which the employees had been employed when lump-sum payment provision of section 5551 of this title had last become applicable to them.

Section 6 of Pub. L. 93-181 provided that where former employees of Post Office Department or United States Postal Service with prior civilian service with Post Office Department or other Federal agency had accrued annual leave after June 30, 1960, and before July 1, 1971, but had not on the rolls on Dec. 14, 1973, and where annual leave thus accrued had been lost because of administrative error, such accrued annual leave was subject to credit and liquidation by lump-sum payment, but only if a claim therefor was filed within three years after Dec. 14, 1973, with Postal Service, at salary rate in effect on date these employees had been employed when lump-sum payment provision of section 5551 of this title or comparable provisions of regulations of Postal Service had last become applicable to them. With respect to present employees of Postal Service who had prior Federal civilian service with Post Office Department or other Federal agency, annual leave

which had accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error had been lost, was subject to credit and liquidation by lump-sum payment only if a claim therefor was filed within three years of Dec. 14, 1973, with Postal Service, at salary rate in effect on Dec. 14, 1973.

#### § 6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels

(a) After 24 months of continuous service outside the United States (or after a shorter period of such service if the employee’s assignment is terminated for the convenience of the Government), an employee may be granted leave of absence, under regulations of the President, at a rate not to exceed 1 week for each 4 months of that service without regard to other leave provided by this subchapter. Leave so granted—

(1) is for use in the United States, or if the employee’s place of residence is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico;

(2) accumulates for future use without regard to the limitation in section 6304(b) of this title; and

(3) may not be made the basis for terminal leave or for a lump-sum payment.

(b) The President may authorize leave of absence to a chief of mission excepted from this subchapter by section 6301(2)(xii) of this title for use in the United States and its territories or possessions. Leave so authorized does not constitute a leave system and may not be made the basis for a lump-sum payment.

(c) An officer, crewmember, or other employee serving aboard an oceangoing vessel on an extended voyage may be granted leave of absence, under regulations of the Office of Personnel Management, at a rate not to exceed 2 days for each 30 calendar days of that service without regard to other leave provided by this subchapter. Leave so granted—

(1) accumulates for future use without regard to the limitation in section 6304(b) of this title;

(2) may not be made the basis for a lump-sum payment, except that civil service mariners of the Military Sealift Command on temporary promotion aboard ship may be paid the difference between their temporary and permanent rates of pay for leave accrued under this section and section 6303 and not otherwise used during the temporary promotion upon the expiration or termination of the temporary promotion; and

(3) may not be made the basis for terminal leave except under such special or emergency circumstances as may be prescribed under the regulations of the Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 520; Pub. L. 89-747, §1(1), (2), Nov. 2, 1966, 80 Stat. 1179; Pub. L. 90-623, §1(16), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(15), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-465, title II, §§2312(c), 2314(f)(2), Oct. 17, 1980, 94 Stat. 2167, 2168; Pub. L. 106-398, §1 [[div. A], title XI, §1133], Oct. 30, 2000, 114 Stat. 1654, 1654A-318.)