

(d) **MILITARY SERVICE DEFINED.**—In this section, the term “military service” means the Army, Navy, Air Force, Marine Corps, and Space Force.

(Added Pub. L. 117–81, div. A, title V, § 532(a), Dec. 27, 2021, 135 Stat. 1694; amended Pub. L. 117–263, div. A, title V, § 545(a), Dec. 23, 2022, 136 Stat. 2584.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263, § 545(a)(1), substituted “Subject to subsection (c), the policies shall” for “The policies shall” in introductory provisions.

Subsecs. (c), (d). Pub. L. 117–263, § 545(a)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, § 545(b), Dec. 23, 2022, 136 Stat. 2584, provided that: “The amendments made subsection (a) [amending this section] shall take effect immediately after the coming into effect of the amendments made by section 532 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1694) [enacting this section] as provided in section 539C of that Act (10 U.S.C. 801 note).”

EFFECTIVE DATE

Section effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as an Effective Date of 2021 Amendment note under section 801 of this title.

§ 1045. Voluntary withholding of State income tax from retired or retainer pay

(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar month shall be retained by the Secretary concerned and disbursed to the States during the following calendar month.

(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

(e) In this section:

(1) The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) The term “Secretary concerned” includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98–525, title VI, § 654(a), Oct. 19, 1984, 98 Stat. 2551; amended Pub. L. 100–26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109–163, div. A, title VI, § 661, Jan. 6, 2006, 119 Stat. 3314.)

Editorial Notes

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163, in third sentence, substituted “any calendar month” for “any calendar quarter” and “during the following calendar month” for “during the month following that calendar quarter”.

1987—Subsec. (e)(1), (2). Pub. L. 100–26 inserted “The term” after each par. designation.

§ 1046. Overseas temporary foster care program

(a) **PROGRAM AUTHORIZED.**—The Secretary concerned may establish a program to provide temporary foster care services outside the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

(b) **EXPENSES.**—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.

(Added Pub. L. 102–484, div. A, title VI, § 651(a), Oct. 23, 1992, 106 Stat. 2425.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1046, added Pub. L. 98–525, title VII, § 708(a)(1), Oct. 19, 1984, 98 Stat. 2572, related to pre-separation counseling, prior to repeal by Pub. L. 101–510, div. A, title V, § 502(b)(1), Nov. 5, 1990, 104 Stat. 1557.