

31, 1976, see section 1903(d) of Pub. L. 94-455, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-93, title II, §207, Aug. 9, 1975, 89 Stat. 467, provided that: "The amendments made by sections 201 through 205 of this title [amending this section and sections 3211, 3221, and 3231 of this title] shall apply for taxable years ending on or after the date of the enactment of this Act [Aug. 9, 1975] and for taxable years ending before the date of the enactment of this Act as to which the period for assessment and collection of tax or the filing of a claim for credit or refund has not expired on the date of enactment of this Act. The amendment made by section 206 of this title [amending section 3231 of this title] shall apply for taxable years beginning on or after the date of enactment of this Act: *Provided, however,* That with respect to payment made prior to the date of enactment of this Act, the employee may file a written request under section 206 within six months after the enactment of this Act."

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-69, title I, §109(b), July 10, 1973, 87 Stat. 165, provided that: "The amendments made by section 102 of this Act [amending this section and sections 3202, 3211, and 3221 of this title] shall become effective on October 1, 1973, and shall apply only with respect to compensation paid for services rendered on or after that date: *Provided, however,* That such amendments shall not be applicable to any dock company, common carrier railroad, or railway labor organization described in section 1(a) of the Railroad Retirement Act of 1937 [section 228a(a) of Title 45, Railroads], with respect to those of its employees covered as of October 1, 1973, by a private supplemental pension plan established through collective bargaining, where a moratorium in an agreement made on or before March 8, 1973, is applicable to changes in rates of pay contained in the current collective-bargaining agreement covering such employees, until the earlier of (1) the date as of which such moratorium expires, or (2) the date as of which such dock company, common carrier railroad, or railway labor organization agrees through collective bargaining to make the provisions of such amendments applicable."

EFFECTIVE DATE OF 1965 AMENDMENTS

Pub. L. 89-212, §6, Sept. 29, 1965, 79 Stat. 862, provided that: "The amendments made by sections 1 and 3 of this Act [amending sections 228b, 228c, and 228e of Title 45, Railroads] shall take effect with respect to annuities accruing and deaths occurring in months after the month in which this Act is enacted [September 1965], and shall apply also to annuities paid in lump sums equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937 [section 228b(e) of Title 45], as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums: *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in the amount of annuities which become payable by reason of section 1 of this Act [amending section 228b of Title 45]. The amendments made by section 2 of this Act [amending sections 3203, 3231, 3402, 6053, and 6652 of this title, and section 228a of Title 45] shall apply only with respect to tips received after 1965. The amendments made by section 4 of this Act [amending this section and sections 3202, 3211, and 3221 of this title] shall apply only with respect to calendar months after the month in which this Act is enacted. The amendments made by section 5 of this Act [amending this section and sections 3211 and 3221 of this title] shall apply only with respect to compensation paid for services rendered after September 30, 1965."

Pub. L. 89-97, title I, §105(b)(4), July 30, 1965, 79 Stat. 336, provided that: "The amendments made by this subsection [amending this section and sections 3211 and 3221 of this title] shall be effective with respect to com-

pensation paid for services rendered after December 31, 1965."

Amendment by section 111(c)(1) 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 [this chapter] 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.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-28, title II, §202, May 19, 1959, 73 Stat. 30, provided that: "The amendments made by section 201 [amending this section and sections 3202, 3211, and 3221 of this title] shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted [May, 1959], and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment."

EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 31, 1954, ch. 1164, pt. IV, §407, 68 Stat. 1042, as amended by act Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "The amendments to the Internal Revenue Code of 1986 [formerly I.R.C. 1954] made by section 206 [amending this section and sections 3202, 3211, 3221, and 3231 of this title] shall become effective as if enacted as a part of the Internal Revenue Code of 1986."

SEPARABILITY

Pub. L. 93-69, title III, §301, July 10, 1973, 87 Stat. 168, provided that: "If any provision of this Act [amending this section, sections 3202, 3211, and 3221 of this title, sections 228b, 228c, and 228e of Title 45, Railroads, and section 15a of former Title 49, and enacting provisions set out as notes under this section, and sections 228b, 228c, 228f, and 228o of Title 45] or the application thereof to any person or circumstances should be held invalid, the remainder of such Act or the application of such provision to other persons or circumstances shall not be affected thereby."

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

For provision that no penalties or interest shall be assessed on account of any failure to make timely payment of taxes imposed by subsec. (b) of this section with respect to payments made for the period Jan. 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to section 3 of Pub. L. 97-123 or the amendments made by that section, see section 3(f) of Pub. L. 97-123, set out as a note under section 3101 of this title.

§ 3202. Deduction of tax from compensation

(a) Requirement

The taxes imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the taxes from the compensation of the employee as and when paid. 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 (3) of section 3231(e) is applicable may deduct an amount equivalent to such taxes with respect to such tips from any compensation 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 under subsection (a) to deduct the tax shall be liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

(c) Special rule for tips

(1) In the case of tips which constitute compensation, 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 quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation 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 taxes imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceed the compensation of the employee (excluding tips) from which the employer is required to collect the taxes 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 quarter) 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 quarter of the calendar year,

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

(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the taxes imposed by section 3201 with respect to tips which constitute compensation exceed the portion of such taxes which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or

paragraph (3), such excess shall be paid by the employee.

(d) Special rule for certain taxable group-term life insurance benefits

(1) In general

In the case of any payment for group-term life insurance to which this subsection applies—

(A) subsection (a) shall not apply,

(B) the employer shall separately include on the statement required under section 6051—

(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

(ii) the amount of the tax imposed by section 3201 on such payments, and

(C) the tax imposed by section 3201 on such payments shall be paid by the employee.

(2) Benefits to which subsection applies

This subsection shall apply to any payment for group-term life insurance to the extent—

(A) such payment constitutes compensation, and

(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer.

(Aug. 16, 1954, ch. 736, 68A Stat. 431; Aug. 31, 1954, ch. 1164, pt. II, §206(a), 68 Stat. 1040; Pub. L. 86-28, pt. II, §201(b), May 19, 1959, 73 Stat. 29; Pub. L. 88-133, title II, §202, Oct. 5, 1963, 77 Stat. 221; Pub. L. 89-212, §§2(a), 4, Sept. 29, 1965, 79 Stat. 858, 861; Pub. L. 89-700, title III, §301(iii), (v), Oct. 30, 1966, 80 Stat. 1088; Pub. L. 93-69, title I, §102(b), July 10, 1973, 87 Stat. 162; Pub. L. 94-455, title XIX, §§1903(a)(7), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1807, 1834; Pub. L. 98-76, title II, §225(a)(2), (c)(1)(A), (B), (2)-(5), Aug. 12, 1983, 97 Stat. 425; Pub. L. 101-508, title V, §5124(b), Nov. 5, 1990, 104 Stat. 1388-285.)

Editorial Notes

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-508 added subsec. (d).
 1983—Subsec. (a). Pub. L. 98-76, §225(a)(2), (c)(1)(A), (2), substituted “taxes imposed by section 3201” for “tax imposed by section 3201”, substituted “the amount of the taxes” for “the amount of the tax”, and “such taxes” for “such tax”, and struck out provisions that if an employee was paid compensation by more than one employer for services rendered during any calendar month and the aggregate of such compensation was in excess of an amount equal to one-twelfth of the current maximum annual taxable “wages” as defined in section 3121 for any month, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month would be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him to the employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month; and that in the event that the compensation so paid by such employers to the employee for services rendered during such month was less than an amount equal to one-twelfth of the current maximum

annual taxable “wages” as defined in section 3121 for any month, each subordinate unit of a national railway-labor-organization employer would deduct such proportion of any additional tax as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month.

Subsec. (c)(2). Pub. L. 98-76, § 225(c)(1)(B), (3), (5), substituted “taxes imposed by section 3201” for “tax imposed by section 3201”, “the taxes under paragraph (1)” for “the tax under paragraph (1)”, and “exceed” for “exceeds”.

Subsec. (c)(4). Pub. L. 98-76, § 225(c)(1)(B), (4), (5), substituted “taxes imposed by section 3201” for “tax imposed by section 3201”, “such taxes” for “such tax”, and “exceed” for “exceeds”.

1976—Subsec. (a). Pub. L. 94-455, § 1903(a)(7)(A), struck out provisions relating to the September 30, 1973, qualification on the applicability of provisions of this subsection and “of the Internal Revenue Code of 1954” before “for any month” wherever appearing.

Subsec. (b). Pub. L. 94-455, § 1903(a)(7)(B), struck out “made” after “to deduct the tax shall be”.

Subsec. (c)(3). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1973—Subsec. (a). Pub. L. 93-69, in second sentence reading “If an employee . . .”, substituted “1973” for “1965” wherever appearing, struck out “(i) \$450, or (ii)” before “an amount equal to” in two places, and struck out “, whichever is greater,” after “Internal Revenue Code of 1954” in two places.

1966—Subsec. (a). Pub. L. 89-700 substituted “after September 30, 1965” for “after the month in which this provision was amended in 1959” in six places, and “(i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965” for “\$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended” in two places.

1965—Subsec. (a). Pub. L. 89-212, §§ 2(a)(1), 4, inserted sentence permitting an employer who is furnished by an employee a written statement of tips pursuant to section 6053(a) to which par. (3) of section 3231(e) is applicable to deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee 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, and inserted “and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121, whichever is greater, for any month after the month in which this provision was so amended” in two places.

Subsec. (c). Pub. L. 89-212, § 2(a)(2), added subsec. (c).

1963—Subsec. (a). Pub. L. 88-133 limited existing taxable compensation base of \$400 to any calendar month before Nov. 1963 and increased such base to \$450 for any calendar month after Oct. 1963.

1959—Subsec. (a). Pub. L. 86-28 substituted “after the month in which this provision was amended in 1959” for “after 1954” and for “after December 31, 1954” in five places, and “\$400” for “\$350” in two places.

1954—Subsec. (a). Act Aug. 31, 1954, substituted “\$350” for “\$300” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to coverage provided after Dec. 31, 1990, see section 5124(c) of Pub. L. 101-508, set out as a note under section 3102 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after Dec. 31, 1984, see section 227(a) of Pub. L. 98-76, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1903(a)(7) of Pub. L. 94-455 applicable with respect to compensation paid for services rendered after Dec. 31, 1976, see section 1903(d) of Pub. L. 94-455, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-69 effective Oct. 1, 1973, and applicable only with respect to compensation paid for services rendered on or after Oct. 1, 1973; and applicable to railway labor organization covered by a private supplemental pension plan as of Oct. 1, 1973, and subject to a moratorium agreed to on or before Mar. 8, 1973, for changes in pay rates, on the earlier of (1) date of expiration of such moratorium, or (2) date as of which the railway labor organization through collective bargaining agreement makes amendment applicable, see section 109(b) of Pub. L. 93-69, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 2(a) of Pub. L. 89-212 effective only with respect to tips received after 1965, and amendment by section 4 of Pub. L. 89-212 effective only with respect to calendar months after the month in which Pub. L. 89-212 is enacted, see section 6 of Pub. L. 89-212, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-28 effective, except as otherwise provided, first day of calendar month next following May 1959, see section 202 of Pub. L. 86-28, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 31, 1954, effective as if enacted as a part of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], see section 407 of act Aug. 31, 1954, as amended, set out as a note under section 3201 of this title.

Subchapter B—Tax on Employee Representatives

Sec.

3211. Rate of tax.

3212. Determination of compensation.

§ 3211. Rate of tax

(a) Tier 1 tax

In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term “applicable percentage” means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.