

sions 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 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.

§ 3212. Determination of compensation

The compensation of an employee representative for the purpose of ascertaining the tax thereon shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in section 3231(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 432.)

Subchapter C—Tax on Employers

Sec.	
3221.	Rate of tax.

§ 3221. Rate of tax

(a) Tier 1 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of compensation paid during any calendar year by such employer for services rendered to such employer. 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 3111 for the calendar year.

(b) Tier 2 tax

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the percentage determined under section 3241 for any calendar year of the compensation paid during such calendar year by such employer for services rendered to such employer.

(c) Cross reference

For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 433; Aug. 31, 1954, ch. 1164, pt. II, §206(a), 68 Stat. 1040; Pub. L. 86-28, pt. II, §201(d), May 19, 1959, 73 Stat. 29; Pub. L. 88-133, title II, §202, Oct. 5, 1963, 77 Stat. 221; Pub. L. 89-97, title I, §§105(b)(3), 111(c)(3), July 30, 1965, 79 Stat. 335, 342; Pub. L. 89-212, §§4, 5(c), Sept. 29, 1965, 79 Stat. 861, 862; Pub. L. 89-699, title III, §301(c), (e), Oct. 30, 1966, 80 Stat. 1078; Pub. L. 89-700, title III, §§301(iii), (v), (vi), 302, Oct. 30, 1966, 80 Stat. 1088, 1089; Pub. L. 91-215, §5(a), (b)(1), Mar. 17, 1970, 84 Stat. 71; Pub. L. 93-69, title I, §102(d)-(f), July 10, 1973, 87 Stat. 162, 163; Pub. L. 93-445, title V, §501, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-93, title II, §203, Aug. 9,

1975, 89 Stat. 466; Pub. L. 94-455, title XIX, §§1903(a)(9), 1906(b)(13)(G), Oct. 4, 1976, 90 Stat. 1808, 1835; Pub. L. 97-34, title VII, §741(c), Aug. 13, 1981, 95 Stat. 347; Pub. L. 98-76, title II, §§211(b), 222, Aug. 12, 1983, 97 Stat. 419, 420; Pub. L. 100-203, title IX, §9032(a), Dec. 22, 1987, 101 Stat. 1330-296; Pub. L. 101-508, title V, §5125(c), Nov. 5, 1990, 104 Stat. 1388-286; Pub. L. 107-90, title II, §§203(b), 204(a), Dec. 21, 2001, 115 Stat. 891; Pub. L. 111-147, title I, §101(d)(1), Mar. 18, 2010, 124 Stat. 74; Pub. L. 113-295, div. A, title II, §221(a)(100)(C), Dec. 19, 2014, 128 Stat. 4052; Pub. L. 115-141, div. U, title IV, §401(b)(36), Mar. 23, 2018, 132 Stat. 1204.)

Editorial Notes

AMENDMENTS

2018—Subsecs. (c), (d). Pub. L. 115-141 redesignated subsec. (d) as (c) and struck out former subsec. (c) which provided for a special rate for certain individuals hired in 2010.

2014—Subsec. (b). Pub. L. 113-295 amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) and (2) establishing the tier 2 tax and its applicable percentage.

2010—Subsecs. (c), (d). Pub. L. 111-147 added subsec. (c) and redesignated former subsec. (c) as (d).

2001—Subsec. (b). Pub. L. 107-90, §204(a), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.”

Subsecs. (c) to (e). Pub. L. 107-90, §203(b), redesignated subsec. (e) as (c) and struck out former subsections. (c) and (d) which provided, in subsec. (c), for imposition of excise tax on every employer, with respect to having individuals in his employ, for each man-hour for which compensation was paid by such employer for services rendered to him during any calendar quarter, and for credit against such tax of amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer, and, in subsec. (d), that such tax would not apply to an employer with respect to employees covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees.

1990—Subsec. (a). Pub. L. 101-508 substituted “applicable” for “following” before “percentage of” and provision defining “applicable percentage” for provision specifying the tax rate to be 7.05 percent, 7.15 percent, 7.51 percent, and 7.65 percent in the case of compensation paid during 1985, 1986 or 1987, 1988 or 1989, or 1990 or thereafter, respectively.

1987—Subsec. (b). Pub. L. 100-203 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentage of compensation paid during any calendar year by such employer for services rendered to such employer:

“In the case of compensation paid during:	The rate shall be:
1985	13.75
1986 or thereafter	14.75.”

1983—Subsec. (a). Pub. L. 98-76, §222(a), in amending subsec. (a) generally, substituted provisions imposing an excise tax on employers, with respect to having individuals in his employ, equal to a percentage of compensation paid as set out in an accompanying table, for provisions which imposed an excise tax on employers,

with respect to having individuals in his employ, equal to 12.75 percent of so much of the compensation paid in any calendar month by such employer for services rendered to him as was not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month, with certain exceptions dealing with multiple employers.

Pub. L. 98-76, §211(b), substituted "12.75 percent" for "11.75 percent".

Subsec. (b). Pub. L. 98-76, §222(a), in amending subsec. (b) generally, substituted provisions imposing a second tier excise tax on employers equal to a percentage of compensation paid as set out in an accompanying table, for provisions that the rate of tax imposed by former subsec. (a) would be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b).

Subsec. (e). Pub. L. 98-76, §222(b), added subsec. (e).

1981—Subsec. (a). Pub. L. 97-34 substituted in first sentence "11.75" for "9.5".

1976—Subsec. (a). Pub. L. 94-455, §§1903(a)(9)(A), 1906(b)(13)(G), struck out provisions relating to the September 30, 1973 qualification on the applicability of provisions of this subsection, "of the Internal Revenue Code of 1954" after "as defined in section 3121" wherever appearing, and "of the Treasury" after "to the Secretary".

Subsec. (b). Pub. L. 94-455, §1903(a)(9)(B), struck out "with respect to compensation paid for services rendered after September 30, 1973," after "shall be increased", "of the Internal Revenue Code of 1954" after "by section 3111(a)" and "of such Code" after "by section 3111(b)".

Subsec. (c). Pub. L. 94-455, §§1903(a)(9)(C), 1906(b)(13)(G), struck out "(1) at the rate of two cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970," after "during any calendar quarter," "commencing with the quarter beginning April 1, 1970" after "required for each calendar quarter", "of the Treasury" after "representatives, and the Secretary" and "of the Treasury" after "shall certify to the Secretary".

1975—Subsec. (a). Pub. L. 94-93 substituted "compensation paid in any calendar month by such employer" for "compensation paid by such employer".

1974—Subsec. (c). Pub. L. 93-445, §501(a), struck out "for appropriation to the Railroad Retirement Supplemental Account provided for in section 15(b) of the Railroad Retirement Act of 1937" after "commencing April 1, 1970, at such rate as will make available", substituted "at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974" for "under section 3(j) of such Act", and inserted "or section 2(h)(2) of the Railroad Retirement Act of 1974" after "section 3(j)(2) of the Railroad Retirement Act of 1937".

Subsec. (d). Pub. L. 93-445, §501(b), substituted "section 2(b) of the Railroad Retirement Act of 1974" for "section 3(j) of the Railroad Retirement Act of 1937" and "section 2(b) of such Act" for "section 3(j) of such Act".

1973—Subsec. (a). Pub. L. 93-69, §102(d), (e), substituted new tax rate provisions on employers for services rendered after Sept. 30, 1973, for former provisions which prescribed 6¼, 6½, 7, 7¼, and 7½ percent on income for services rendered after Sept. 30, 1965; Dec. 31, 1965; Dec. 31, 1966; Dec. 31, 1967; and Dec. 31, 1968, respectively, as is, with respect to any employee for any calendar month, not in excess of (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 Sept. 30, 1965, and, in first sentence, 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, respectively.

Subsec. (b). Pub. L. 93-69, §102(f), substituted "1973" for "1965" and "by the rate of tax imposed with respect

to wages by section 3111(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3111(b) of such Code", for "by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of section 3111 as amended by the Social Security Amendments of 1956)".

1970—Subsec. (c). Pub. L. 91-215, §5(a), provided a variable standard of taxation on employers for services rendered them during any calendar quarter at the existing 2 cent rate for each man-hour of services for the period from Nov. 1, 1966 to Mar. 31, 1970, and thereafter at such rates as will permit supplemental annuity payments under section 228c(j) of this title, and authorized the Railroad Retirement Board to make the necessary determination of rates, and made it its duty to publish notice of such determinations in the Federal Register.

Subsec. (d). Pub. L. 91-215, §5(b)(1), added subsec. (d).
1966—Subsec. (a). Pub. L. 89-700, §§301(iii), (v), 302, 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 four places, and inserted sentence providing that where compensation for services rendered in a month is paid by two or more employers, one of the employers may, by notice to the Secretary, and by agreement with the other employer, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by section 3201 and this section; and in such a case the liability of the other employer shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

Pub. L. 89-699, §301(c), substituted "7 percent" for "6¾ percent" in subd. (3), "7¼ percent" for "7 percent" in subd. (4), and "7½ percent" for "7¼ percent" in subd. (5).

Subsec. (b). Pub. L. 89-700, §301(vi), substituted "after September 30, 1965" for "after December 31, 1964".

Subsec. (c). Pub. L. 89-699 added subsec. (c).

1965—Subsec. (a). Pub. L. 89-212 substituted pars. (1) to (5) for former pars. (1) and (2) which imposed an excise tax equal to 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before Jan. 1, 1962, and 7¼ percent of so much of the compensation paid by such employer for services rendered to him after Dec. 31, 1961, 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" wherever appearing.

Subsec. (b). Pub. L. 89-97 substituted "the rate of the tax imposed with respect to wages by section 3111(a) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of section 3111 as amended by the Social Security Amendments of 1956)" for "the rate of the tax

imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956" and inserted "plus the rate imposed by section 3111(b)" after "section 3111(a)", respectively.

1963—Subsec. (a). Pub. L. 88-133 limited the 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, §201(d)(1), (2)(A), (B), designated former provisions of section as subsec. (a), increased the tax from 6¼ percent of the compensation not in excess of \$350 for any calendar month to 6¾ percent of the compensation not in excess of \$400 for any calendar month for services rendered before Jan. 1, 1962, and to 7¼ percent for services rendered after Dec. 31, 1961, and substituted "after the month in which this provision was amended in 1959" for "after 1954" and for "after December 31, 1954" in six places, "not more than \$400" for "not more than \$350", and "less than \$400" for "less than \$350".

Subsec. (b). Pub. L. 86-28, §201(d)(2)(C), added subsec. (b).

1954—Act Aug. 31, 1954, substituted "\$350" for "\$300" wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to compensation paid after Mar. 18, 2010, see section 101(e) of Pub. L. 111-147, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 203(b) of Pub. L. 107-90 applicable to calendar years beginning after Dec. 31, 2001, see section 203(c) of Pub. L. 107-90, set out as a note under section 3211 of this title.

Amendment by section 204(a) of Pub. L. 107-90 applicable to calendar years beginning after Dec. 31, 2001, see section 204(f) of Pub. L. 107-90, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9032(b), Dec. 22, 1987, 101 Stat. 1330-296, provided that: "The amendments made by this section [amending this section] shall apply with respect to compensation paid after December 31, 1987."

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENT

Amendment by section 211(b) of Pub. L. 98-76 applicable to compensation paid for services rendered after Dec. 31, 1983, and before Jan. 1, 1985, see section 212 of Pub. L. 98-76, set out as a note under section 3201 of this title.

Amendment by section 222 of 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 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to compensation paid for services rendered after Sept. 30, 1981, see section 741(e) of Pub. L. 97-34, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1903(a)(9) 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 3101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-93 applicable for taxable years ending on or after Aug. 9, 1975, and for taxable years ending before Aug. 9, 1975, 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 Aug. 9, 1975, see section 207 of Pub. L. 94-93, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-445, title VI, §604, Oct. 16, 1974, 88 Stat. 1361, provided that: "The amendments made by the provisions of title V of this Act [amending this section and section 6413 of this title] shall become effective on January 1, 1975, and shall apply only with respect to compensation paid for services rendered on or after that date."

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 1966 AMENDMENT

Amendment by Pub. L. 89-699 effective with respect to man-hours, beginning with first month following Oct. 30, 1966, for which compensation is paid, see section 301(f) of Pub. L. 89-699, set out as a note under section 3211 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

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 [September 1965], and amendment by section 5(c) of Pub. L. 89-212 effective only with respect to compensation paid for services rendered after Sept. 30, 1965, see section 6 of Pub. L. 89-212, set out as a note under section 3201 of this title.

Amendment by section 105(b)(3) of Pub. L. 89-97 effective with respect to compensation paid for services rendered after Dec. 31, 1965, see section 105(b)(4) of Pub. L. 89-97, set out as a note under section 3201 of this title.

Amendment by section 111(c)(3) 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 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 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

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.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain

transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 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

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.

PAYROLL CREDITS FOR EMERGENCY SICK OR FAMILY LEAVE AND SPECIAL RULE FOR 2020

For allowance of credit against tax imposed by subsec. (a) of this section for certain sick leave wages paid by an employer applicable during part of 2020, see section 7001 of Pub. L. 116-127, set out as a note under section 3111 of this title.

For allowance of credit against tax imposed by subsec. (a) of this section for certain family leave wages paid by an employer applicable during part of 2020, see section 7003 of Pub. L. 116-127, set out as a note under section 3111 of this title.

For provision that sick leave and family leave wages paid out by reason of certain provisions of Pub. L. 116-127 not to be considered compensation for purposes of subsec. (a) of this section, see section 7005 of Pub. L. 116-127, set out as a note under section 3111 of this title.

EXCISE TAXES ON EMPLOYERS; EMPLOYEES COVERED BY CERTAIN SUPPLEMENTAL PENSION PLANS

Pub. L. 91-215, §5(b)(2), Mar. 17, 1970, 84 Stat. 71, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to (A) supplemental annuities paid on or after April 1, 1970, and (B) man-hours with respect to which compensation is paid for services rendered to such employer on or after such day."

Subchapter D—General Provisions

Sec.	
3231.	Definitions.
3232.	Court jurisdiction.
3233.	Short title.

§ 3231. Definitions

(a) Employer

For purposes of this chapter, the term "employer" means any carrier (as defined in subsection (g)), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer; except that the term "employer" shall not in-

clude any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Surface Transportation Board is hereby authorized and directed upon request of the Secretary, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this exception. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended (45 U.S.C., chapter 8), and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitutions and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tippie, and the operation of equipment or facilities therefor, or in any of such activities.

(b) Employee

For purposes of this chapter, the term "employee" means any individual in the service of one or more employers for compensation. The term "employee" includes an officer of an employer. The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tippie, or the loading of coal at the tippie.

(c) Employee representative

For purposes of this chapter, the term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act (45 U.S.C., chapter 8), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) Service

For purposes of this chapter, an individual is in the service of an employer whether his service is rendered within or without the United States, if—

- (1) he is subject to the continuing authority of the employer to supervise and direct the