

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 115(a), (b), (c)(2), (3) of Pub. L. 94-566, see section 115(d) of Pub. L. 94-566, set out as a note under section 3304 of this title.

For effective date of amendment by section 506(a) of Pub. L. 94-566, see section 506(c) of Pub. L. 94-566, set out as a note under section 3304 of this title.

EFFECTIVE DATE

Section applicable with respect to certifications of State laws for 1972 and subsequent years, but only with respect to service performed after Dec. 31, 1971, see section 104(d)(1) of Pub. L. 91-373, set out as a note under section 3304 of this title.

§ 3310. Judicial review**(a) In general**

Whenever under section 3303(b) or section 3304(c) the Secretary of Labor makes a finding pursuant to which he is required to withhold a certification with respect to a State under such section, such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28 of the United States Code.

(b) Findings of fact

The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence, and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Jurisdiction of court; review

The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(d) Stay of Secretary of Labor's action

(1) The Secretary of Labor shall not withhold any certification under section 3303(b) or section 3304(c) until the expiration of 60 days after the Governor of the State has been notified of the action referred to in subsection (a) or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall stay the Secretary of Labor's action for a period of 30 days, and the court may thereafter grant interim relief if warranted, including a further stay of the Secretary of Labor's action and including such other relief as may be necessary to preserve status or rights.

(Added Pub. L. 91-373, title I, § 131(b)(1), Aug. 10, 1970, 84 Stat. 703; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(F), (H), Oct. 4, 1976, 90 Stat. 1835; Pub. L. 98-620, title IV, § 402(28)(A), Nov. 8, 1984, 98 Stat. 3359.)

Editorial Notes

AMENDMENTS

1984—Subsec. (e). Pub. L. 98-620 struck out subsec. (e) which had provided that any judicial proceedings under this section were entitled to, and upon request of the Secretary of Labor or of the State would receive, a preference and would be heard and determined as expeditiously as possible.

1976—Subsec. (d)(2). Pub. L. 94-455, § 1906(b)(13)(F), substituted “the Secretary of Labor’s action” for “the Secretary’s action” in two places.

Subsec. (e). Pub. L. 94-455, § 1906(b)(13)(H), substituted “of the Secretary of Labor” for “of the Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 3311. Short title

This chapter may be cited as the “Federal Unemployment Tax Act.”

(Aug. 16, 1954, ch. 736, 68A Stat. 454, § 3308; renumbered § 3309, Pub. L. 86-778, title V, § 531(d)(1), Sept. 13, 1960, 74 Stat. 983; renumbered § 3311, Pub. L. 91-373, title I, § 104(b)(1), Aug. 10, 1970, 84 Stat. 697.)

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-566, § 1, Oct. 20, 1976, 90 Stat. 2667, provided that: “This Act [enacting section 603a of Title 42, The Public Health and Welfare, amending section 3304 of this title and provisions set out as notes under sections 3301, 3303, 3304, 3306, 3309, and 6157 of this title, sections 8501, 8503, 8504, 8505, 8506, 8521, and 8522 of Title 5, Government Organization and Employees, sections 49b and 49d of Title 29, Labor, and sections 607, 1101, 1105, 1301, 1321, 1382, 1382a, 1382d, and 1382e of Title 42, and enacting provisions set out as notes under sections 3301, 3303, 3304, and 3306 of this title, sections 8501 and 8506 of Title 5, and sections 607, 1101, 1321, 1382, 1382d, 1382e, and 1396a of Title 42] may be cited as the ‘Unemployment Compensation Amendments of 1976’.”

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-45, § 1, June 30, 1975, 89 Stat. 236, provided that: “This Act [amending sections 44 and 3302 of this title and amending provisions set out as notes under sections 44 and 3304 of this title and enacting provisions set out as notes under sections 3302 and 3304 of this title] may be cited as the ‘Emergency Compensation and Special Unemployment Assistance Extension Act of 1975’.”

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-373, § 1, Aug. 10, 1970, 84 Stat. 695, provided: “That this Act [enacting sections 3309 and 3310 of this title and sections 504, 1106, 1107, and 1108 of Title 42, The Public Health and Welfare, repealing section 8524 of Title 5, Government Organization and Employees, and amending sections 1563, 3301 to 3306, and 6157 of this title, sections 77c and 78c of Title 15, Commerce and Trade, and sections 1101, 1102, 1103, 1105, and 1323 of

Title 42, and enacting provisions set out as notes under sections 3301 to 3304, 3306, and 6157 of this title, section 77c of Title 15, and section 1101 of Title 42] may be cited as the ‘Employment Security Amendments of 1970.’

CHAPTER 23A—RAILROAD UNEMPLOYMENT REPAYMENT TAX

Sec.	
3321.	Imposition of tax.
3322.	Definitions.

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11704(a)(18), Nov. 5, 1990, 104 Stat. 1388-519, substituted “23A—” for “23A.” in chapter heading.

1988—Pub. L. 100-647, title VII, §7106(a), Nov. 10, 1988, 102 Stat. 3772, reenacted chapter heading and item 3321 without change, substituted “Definitions” for “Taxable period” in item 3322, and omitted item 3323 “Other definitions”.

§ 3321. Imposition of tax

(a) General rule

There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

(b) Tax on employee representatives

(1) In general

There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

(2) Determination of wages

The rail wages of an employee representative for purposes of paragraph (1) 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 a rail employer.

(c) Termination if loans to railroad unemployment fund repaid

The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

- (1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and
- (2) no unpaid interest on such transfers.

(Added Pub. L. 98-76, title II, §231(a), Aug. 12, 1983, 97 Stat. 426; amended Pub. L. 99-272, title XIII, §13301(a), Apr. 7, 1986, 100 Stat. 325; Pub. L. 100-647, title I, §1018(u)(17), title VIII, §7106(a), Nov. 10, 1988, 102 Stat. 3590, 3772.)

Editorial Notes

REFERENCES IN TEXT

Section 10(d) of the Railroad Unemployment Insurance Act, referred to in subsec. (c)(1), is classified to section 360(d) of Title 45, Railroads.

AMENDMENTS

1988—Pub. L. 100-647, §7106(a), amended section generally, revising and restating provisions of subssecs. (a)

and (b) and specifying imposition of 4 percent tax on rail wages rather than a tax based on the “applicable percentage” of rail wages, and in subsec. (c) substituting provisions relating to termination if loans to railroad unemployment fund repaid for provisions relating to rates of tax.

Pub. L. 100-647, §1018(u)(17), added a period at end of par. (4).

1986—Subsec. (c). Pub. L. 99-272 amended subsec. (c) generally. Prior to amendment subsec. (c) read as follows:

“(c) RATE OF TAX.—For purposes of this section—

“(1) FOR TAXABLE PERIOD JULY 1 THROUGH DECEMBER 31, 1986.—The applicable percentage for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, shall be 2 percent.

“(2) SUBSEQUENT TAXABLE PERIODS.—The applicable percentage for any taxable period beginning after 1986 shall be the sum of—

“(A) 2 percent, plus

“(B) 0.3 percent for each preceding taxable period.

In no event shall the applicable percentage exceed 5 percent.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1018(u)(17) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title VII, §7106(d), Nov. 10, 1988, 102 Stat. 3774, provided that: “The amendments made by this section [amending this section and sections 3322, 6157, 6201, 6317, 6513, and 6601 of this title, omitting section 3323 of this title, and amending provisions set out as a note under section 231n of Title 45, Railroads], and the provisions of subsection (b) [set out below], shall apply to remuneration paid after December 31, 1988.”

EFFECTIVE DATE

Pub. L. 98-76, title II, §231(d), Aug. 12, 1983, 97 Stat. 429, provided that: “The amendments made by this section [enacting this chapter and amending sections 6157, 6201, 6317, 6513, and 6601 of this title] shall apply to remuneration paid after June 30, 1986.”

CONTINUATION OF SURTAX RATE THROUGH 1990

Pub. L. 100-647, title VII, §7106(b), Nov. 10, 1988, 102 Stat. 3773, provided that:

“(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1991—

“(A) there shall be substituted for ‘4 percent’ in subsections (a) and (b) of section 3321 of the 1986 Code the percentage equal to the sum of—

“(i) 4 percent, plus

“(ii) the surtax rate (if any) for such calendar month, and

“(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

“(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

“(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act [45 U.S.C. 360(d)], and

“(B) zero for any other calendar month.”

§ 3322. Definitions

(a) Rail employer

For purposes of this chapter, the term “rail employer” means any person who is an em-