

see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

Amendment by section 522(b)(1)–(2)(C) of Pub. L. 102-318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102-318, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1012(bb)(2)(D), Nov. 10, 1988, 102 Stat. 3534, provided that: “The amendments made by this paragraph [amending this section] shall apply to distributions made after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1102(e)(1) of Pub. L. 99-514 applicable to contributions and distributions for taxable years beginning after Dec. 31, 1986, see section 1102(g) of Pub. L. 99-514, set out as a note under section 219 of this title.

Pub. L. 99-514, title XII, §1234(b)(2), Oct. 22, 1986, 100 Stat. 2566, provided that: “The amendment made by this subsection [amending this section] shall apply to payments after December 31, 1986.”

Amendment by section 1875(c)(10) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 542(c) of Pub. L. 98-369 applicable to taxable years beginning after July 18, 1984, see section 542(d) of Pub. L. 98-369, set out as a note under section 404 of this title.

Amendment by section 714(j)(1), (4), (5) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 722(h)(4)(A) of Pub. L. 98-369 applicable to payments or distributions after Dec. 31, 1984, unless the payor elects to have such amendment apply to payments or distributions before Jan. 1, 1985, see section 722(h)(5)(B) of Pub. L. 98-369, set out as a note under section 643 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §334(e), Sept. 3, 1982, 96 Stat. 627, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) [enacting this section] and (d) [amending section 3402 of this title] shall apply to payments or other distributions made after December 31, 1982.

“(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) [amending section 6047 of this title] shall take effect on January 1, 1983.

“(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) [enacting section 6704 of this title] shall take effect on January 1, 1985.

“(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

“(5) DELAY IN APPLICATION.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

“(6) WAIVER OF PENALTY.—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 3406. Backup withholding

(a) Requirement to deduct and withhold

(1) In general

In the case of any reportable payment, if—

(A) the payee fails to furnish his TIN to the payor in the manner required,

(B) the Secretary notifies the payor that the TIN furnished by the payee is incorrect,

(C) there has been a notified payee underreporting described in subsection (c), or

(D) there has been a payee certification failure described in subsection (d),

then the payor shall deduct and withhold from such payment a tax equal to the product of the fourth lowest rate of tax applicable under section 1(c)¹ and such payment.

(2) Subparagraphs (C) and (D) of paragraph (1) apply only to interest and dividend payments

Subparagraphs (C) and (D) of paragraph (1) shall apply only to reportable interest or dividend payments.

(b) Reportable payment, etc.

For purposes of this section—

(1) Reportable payment

The term “reportable payment” means—

(A) any reportable interest or dividend payment, and

(B) any other reportable payment.

(2) Reportable interest or dividend payment

(A) In general

The term “reportable interest or dividend payment” means any payment of a kind, and to a payee, required to be shown on a return required under—

(i) section 6049(a) (relating to payments of interest),

(ii) section 6042(a) (relating to payments of dividends), or

¹ See References in Text note below.

(iii) section 6044 (relating to payments of patronage dividends) but only to the extent such payment is in money.

(B) Special rule for patronage dividends

For purposes of subparagraphs (C) and (D) of subsection (a)(1), the term “reportable interest or dividend payment” shall not include any payment to which section 6044 (relating to patronage dividends) applies unless 50 percent or more of such payment is in money.

(3) Other reportable payment

The term “other reportable payment” means any payment of a kind, and to a payee, required to be shown on a return required under—

(A) section 6041 (relating to certain information at source),

(B) section 6041A(a) (relating to payments of remuneration for services),

(C) section 6045 (relating to returns of brokers),

(D) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent such payment is in money and represents a share of the proceeds of the catch,

(E) section 6050N (relating to payments of royalties), or

(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).

(4) Whether payment is of reportable kind determined without regard to minimum amount

The determination of whether any payment is of a kind required to be shown on a return described in paragraph (2) or (3) shall be made without regard to any minimum amount which must be paid before a return is required.

(5) Exception for certain small payments

To the extent provided in regulations, the term “reportable payment” shall not include any payment which—

(A) does not exceed \$10, and

(B) if determined for a 1-year period, would not exceed \$10.

(6) Other reportable payments include payments described in section 6041(a) or 6041A(a) only where aggregate for calendar year is \$600 or more

Any payment of a kind required to be shown on a return required under section 6041(a) or 6041A(a) which is made during any calendar year shall be treated as a reportable payment only if—

(A) the aggregate amount of such payment and all previous payments described in such sections by the payor to the payee during such calendar year equals or exceeds \$600,

(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee, or

(C) during the preceding calendar year, the payor made reportable payments to the payee with respect to which amounts were required to be deducted and withheld under subsection (a).

(7) Exception for certain window payments of interest, etc.

For purposes of subparagraphs (C) and (D) of subsection (a)(1), the term “reportable interest or dividend payment” shall not include any payment—

(A) in redemption of a coupon on a bearer instrument or in redemption of a United States savings bond, or

(B) to the extent provided in regulations, of interest on instruments similar to those described in subparagraph (A).

The preceding sentence shall not apply for purposes of determining whether there is payee underreporting described in subsection (c).

(c) Notified payee underreporting with respect to interest and dividends

(1) Notified payee underreporting

If—

(A) the Secretary determines with respect to any payee that there has been payee underreporting,

(B) at least 4 notices have been mailed by the Secretary to the payee (over a period of at least 120 days) with respect to the underreporting, and

(C) in the case of any payee who has filed a return for the taxable year, any deficiency of tax attributable to such failure has been assessed,

the Secretary may notify payors of reportable interest or dividend payments with respect to such payee of the requirement to deduct and withhold under subsection (a)(1)(C) (but not the reasons for the withholding under subsection (a)(1)(C)).

(2) Payee underreporting defined

For purposes of this section, there has been payee underreporting if for any taxable year the Secretary determines that—

(A) the payee failed to include in his return of tax under chapter 1 for such year any portion of a reportable interest or dividend payment required to be shown on such return, or

(B) the payee may be required to file a return for such year and to include a reportable interest or dividend payment in such return, but failed to file such return.

(3) Determination by Secretary to stop (or not to start) withholding

(A) In general

If the Secretary determines that—

(i) there was no payee underreporting,

(ii) any payee underreporting has been corrected (and any tax, penalty, or interest with respect to the payee underreporting has been paid),

(iii) withholding under subsection (a)(1)(C) has caused (or would cause) undue hardship to the payee and it is unlikely that any payee underreporting by such payee will occur again, or

(iv) there is a bona fide dispute as to whether there has been any payee underreporting,

then the Secretary shall take the action described in subparagraph (B).

(B) Secretary to take action to stop (or not to start) withholding

For purposes of subparagraph (A), if at the time of the Secretary's determination under subparagraph (A)—

(i) no notice has been given under paragraph (1) to any payor with respect to the underreporting, the Secretary shall not give any such notice, or

(ii) if such notice has been given, the Secretary shall—

(I) provide the payee with a written certification that withholding under subsection (a)(1)(C) is to stop, and

(II) notify the applicable payors (and brokers) that such withholding is to stop.

(C) Time for taking action where notice to payor has been given

In any case where notice has been given under paragraph (1) to any payor with respect to any underreporting, if the Secretary makes a determination under subparagraph (A) during the 12-month period ending on October 15 of any calendar year—

(i) except as provided in clause (ii), the Secretary shall take the action described in subparagraph (B)(ii) to bring about the stopping of withholding no later than December 1 of such calendar year, or

(ii) in the case of—

(I) a no payee underreporting determination under clause (i) of subparagraph (A), or

(II) a hardship determination under clause (iii) of subparagraph (A),

such action shall be taken no later than the 45th day after the day on which the Secretary made the determination.

(D) Opportunity to request determination

The Secretary shall prescribe procedures under which—

(i) a payee may request a determination under subparagraph (A), and

(ii) the payee may provide information with respect to such request.

(4) Payor notifies payee of withholding because of payee underreporting

Any payor required to withhold any tax under subsection (a)(1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

(5) Payee may be required to notify Secretary who his payors and brokers are

For purposes of this section, the Secretary may require any payee of reportable interest or dividend payments who is subject to withholding under subsection (a)(1)(C) to notify the Secretary of—

(A) all payors from whom the payee receives reportable interest or dividend payments, and

(B) all brokers with whom the payee has accounts which may involve reportable interest or dividend payments.

The Secretary may notify any such broker that such payee is subject to withholding under subsection (a)(1)(C).

(d) Interest and dividend backup withholding applies to new accounts and instruments unless payee certifies that he is not subject to such withholding

(1) In general

There is a payee certification failure unless the payee has certified to the payor, under penalty of perjury, that such payee is not subject to withholding under subsection (a)(1)(C).

(2) Special rules for readily tradable instruments

(A) In general

Subsection (a)(1)(D) shall apply to any reportable interest or dividend payment to any payee on any readily tradable instrument if (and only if) the payor was notified by a broker under subparagraph (B) or no certification was provided to the payor by the payee under paragraph (1) and—

(i) such instrument was acquired directly by the payee from the payor, or

(ii) such instrument is held by the payor as nominee for the payee.

(B) Broker notifies payor

If—

(i) a payee acquires any readily tradable instrument through a broker, and

(ii) with respect to such acquisition—

(I) the payee fails to furnish his TIN to the broker in the manner required under subsection (a)(1)(A),

(II) the Secretary notifies such broker before such acquisition that the TIN furnished by the payee is incorrect,

(III) the Secretary notifies such broker before such acquisition that such payee is subject to withholding under subsection (a)(1)(C), or

(IV) the payee does not provide a certification to such broker under subparagraph (C),

such broker shall, within such period as the Secretary may prescribe by regulations (but not later than 15 days after such acquisition), notify the payor that such payee is subject to withholding under subparagraph (A), (B), (C), or (D) of subsection (a)(1), respectively.

(C) Time for payee to provide certification to broker

In the case of any readily tradable instrument acquired by a payee through a broker, the certification described in paragraph (1) may be provided by the payee to such broker—

(i) at any time after the payee's account with the broker was established and before the acquisition of such instrument, or

(ii) in connection with the acquisition of such instrument.

(3) Exception for existing accounts, etc.

This subsection and subsection (a)(1)(D) shall not apply to any reportable interest or dividend payment which is paid or credited—

(A) in the case of interest or any other amount of a kind reportable under section 6049, with respect to any account (whatever called) established before January 1, 1984, or with respect to any instrument acquired before January 1, 1984,

(B) in the case of dividends or any other amount reportable under section 6042, on any stock or other instrument acquired before January 1, 1984, or

(C) in the case of patronage dividends or other amounts of a kind reportable under section 6044, with respect to any membership acquired, or contract entered into, before January 1, 1984.

(4) Exception for readily tradable instruments acquired through existing brokerage accounts

Subparagraph (B) of paragraph (2) shall not apply with respect to a readily tradable instrument which was acquired through an account with a broker if—

(A) such account was established before January 1, 1984, and

(B) during 1983, such broker bought or sold instruments for the payee (or acted as a nominee for the payee) through such account.

The preceding sentence shall not apply with respect to any readily tradable instrument acquired through such account after the broker was notified by the Secretary that the payee is subject to withholding under subsection (a)(1)(C).

(e) Period for which withholding is in effect

(1) Failure to furnish TIN

In the case of any failure by a payee to furnish his TIN to a payor in the manner required, subsection (a) shall apply to any reportable payment made by such payor during the period during which the TIN has not been furnished in the manner required. The Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.

(2) Notification of incorrect number

In any case in which the Secretary notifies the payor that the TIN furnished by the payee is incorrect, subsection (a) shall apply to any reportable payment made by such payor—

(A) after the close of the 30th day after the day on which the payor received such notification, and

(B) before the payee furnishes another TIN in the manner required.

(3) Notified payee underreporting described in subsection (c)

(A) In general

In the case of any notified payee underreporting described in subsection (c), subsection (a) shall apply to any reportable interest or dividend payment made—

(i) after the close of the 30th day after the day on which the payor received notification

from the Secretary of such underreporting, and

(ii) before the stop date.

(B) Stop date

For purposes of this subsection, the term “stop date” means the determination effective date or, if later, the earlier of—

(i) the day on which the payor received notification from the Secretary under subsection (c)(3)(B) to stop withholding, or

(ii) the day on which the payor receives from the payee a certification provided by the Secretary under subsection (c)(3)(B).

(C) Determination effective date

For purposes of this subsection—

(i) In general

Except as provided in clause (ii), the determination effective date of any determination under subsection (c)(3)(A) which is made during the 12-month period ending on October 15 of any calendar year shall be the first January 1 following such October 15.

(ii) Determination that there was no underreporting; hardship

In the case of any determination under clause (i) or (iii) of subsection (c)(3)(A), the determination effective date shall be the date on which the Secretary’s determination is made.

(4) Failure to provide certification that payee is not subject to withholding

(A) In general

In the case of any payee certification failure described in subsection (d)(1), subsection (a) shall apply to any reportable interest or dividend payment made during the period during which the certification described in subsection (d)(1) has not been furnished to the payor.

(B) Special rule for readily tradable instruments acquired through broker where notification

In the case of any readily tradable instrument acquired by the payee through a broker, the period described in subparagraph (A) shall start with payments to the payee made after the close of the 30th day after the payor receives notification from a broker under subsection (d)(2)(B).

(5) 30-day grace periods

(A) Start-up

If the payor elects the application of this subparagraph with respect to the payee, subsection (a) shall also apply to any reportable payment made during the 30-day period described in paragraph (2)(A), (3)(A), or (4)(B).

(B) Stopping

Unless the payor elects not to have this subparagraph apply with respect to the payee, subsection (a) shall also apply to any reportable payment made after the close of the period described in paragraph (1), (2), or (4) (as the case may be) and before the 30th day after the close of such period. A similar

rule shall also apply with respect to the period described in paragraph (3)(A) where the stop date is determined under clause (i) or (ii) of paragraph (3)(B).

(C) Election of shorter grace period

The payor may elect a period shorter than the grace period set forth in subparagraph (A) or (B), as the case may be.

(f) Confidentiality of information

(1) In general

No person may use any information obtained under this section (including any failure to certify under subsection (d)) except for purposes of meeting any requirement under this section or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103.

(2) Cross reference

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(g) Exceptions

(1) Payments to certain payees

Subsection (a) shall not apply to any payment made to—

(A) any organization or governmental unit described in subparagraph (B), (C), (D), (E), or (F) of section 6049(b)(4), or

(B) any other person specified in regulations.

(2) Amounts for which withholding otherwise required

Subsection (a) shall not apply to any amount for which withholding is otherwise required by this title.

(3) Exemption while waiting for TIN

The Secretary shall prescribe regulations for exemptions from the tax imposed by subsection (a) during the period during which a person is waiting for receipt of a TIN.

(h) Other definitions and special rules

For purposes of this section—

(1) Obviously incorrect number

A person shall be treated as failing to furnish his TIN if the TIN furnished does not contain the proper number of digits.

(2) Payee furnishes 2 incorrect TINs

If the payee furnishes the payor 2 incorrect TINs in any 3-year period, the payor shall, after receiving notice of the second incorrect TIN, treat the payee as not having furnished another TIN under subsection (e)(2)(B) until the day on which the payor receives notification from the Secretary that a correct TIN has been furnished.

(3) Joint payees

Except to the extent otherwise provided in regulations, any payment to joint payees shall be treated as if all the payment were made to the first person listed in the payment.

(4) Payor defined

The term “payor” means, with respect to any reportable payment, a person required to file a return described in paragraph (2) or (3) of subsection (b) with respect to such payment.

(5) Broker

(A) In general

The term “broker” has the meaning given to such term by section 6045(c)(1).

(B) Only 1 broker per acquisition

If, but for this subparagraph, there would be more than 1 broker with respect to any acquisition, only the broker having the closest contact with the payee shall be treated as the broker.

(C) Payor not treated as broker

In the case of any instrument, such term shall not include any person who is the payor with respect to such instrument.

(D) Real estate broker not treated as a broker

Except as provided by regulations, such term shall not include any real estate broker (as defined in section 6045(e)(2)).

(6) Readily tradable instrument

The term “readily tradable instrument” means—

(A) any instrument which is part of an issue any portion of which is traded on an established securities market (within the meaning of section 453(f)(5)), and

(B) except as otherwise provided in regulations prescribed by the Secretary, any instrument which is regularly quoted by brokers or dealers making a market.

(7) Original issue discount

To the extent provided in regulations, rules similar to the rules of paragraph (6) of section 6049(d) shall apply.

(8) Requirement of notice to payee

Whenever the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

(9) Requirement of notice to Secretary

If the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect and such payee subsequently furnishes another TIN to the payor, the payor shall promptly notify the Secretary of the other TIN so furnished.

(10) Coordination with other sections

For purposes of section 31, this chapter (other than section 3402(n)), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this section shall be treated as if they were wages paid by an employer to an employee (and amounts deducted and withheld under this section shall be treated as if deducted and withheld under section 3402).

(i) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 98-67, title I, §104(a), Aug. 5, 1983, 97 Stat. 371; amended Pub. L. 98-369, div. A, title

I, §152(a), title VII, §722(h)(1), (2), July 18, 1984, 98 Stat. 691, 975; Pub. L. 99-514, title XV, §§1521(b), 1523(b)(1), title XVIII, §1899A(46), Oct. 22, 1986, 100 Stat. 2746, 2748, 2961; Pub. L. 100-647, title I, §1018(u)(44), Nov. 10, 1988, 102 Stat. 3592; Pub. L. 102-486, title XIX, §1935(a), Oct. 24, 1992, 106 Stat. 3032; Pub. L. 107-16, title I, §101(c)(10), June 7, 2001, 115 Stat. 44; Pub. L. 110-289, div. C, title III, §3091(c), July 30, 2008, 122 Stat. 2911.)

Editorial Notes

REFERENCES IN TEXT

Section 1(c), referred to in subsec. (a)(1), to be treated, for purposes of the rate of tax, as a reference to the corresponding rate bracket under section 1(j)(2)(C) of this title, see section 1(j)(2)(F) of this title.

AMENDMENTS

2008—Subsec. (b)(3)(F). Pub. L. 110-289 added subpar. (F).

2001—Subsec. (a)(1). Pub. L. 107-16 substituted “equal to the product of the fourth lowest rate of tax applicable under section 1(c) and such payment” for “equal to 31 percent of such payment” in concluding provisions.

1992—Subsec. (a)(1). Pub. L. 102-486, in closing provisions, substituted “31 percent” for “20 percent”.

1988—Subsec. (h)(5)(D). Pub. L. 100-647 inserted period at end of subpar. (D).

1986—Subsec. (b)(3)(E). Pub. L. 99-514, §1523(b)(1), added subpar. (E).

Subsec. (b)(6). Pub. L. 99-514, §1899A(46), substituted “6041A(a)” for “6041(A)(a)” in heading.

Subsec. (h)(5)(D). Pub. L. 99-514, §1521(b), added subpar. (D).

1984—Subsec. (c)(1). Pub. L. 98-369, §722(h)(2), substituted “(but not the reasons for the withholding under subsection (a)(1)(C))” for “(but not the reasons therefor)”.

Subsec. (d)(2)(A). Pub. L. 98-369, §722(h)(1)(A), inserted “the payor was notified by a broker under subparagraph (B) or” after “if (and only if)” in provisions preceding cl. (i), struck out cl. (i) which read as follows: “the payor was notified by a broker under subparagraph (B),” and redesignated cls. (ii) and (iii) as (i) and (ii), respectively.

Subsec. (d)(2)(B). Pub. L. 98-369, §722(h)(1)(B), in amending subpar. (B) generally, reenacted cl. (i), in cl. (ii) inserted “with respect to such acquisition—”, added subcls. (I) and (II), redesignated former subcls. (I) and (II) as (III) and (IV), respectively, and in subcl. (III) substituted “the Secretary notifies such broker” for “such broker is notified by the Secretary”, and in provisions following cl. (ii) substituted “shall within such period as the Secretary may prescribe by regulations (but not later than 15 days after such acquisition), notify the payor that such payee is subject to withholding under subparagraph (A), (B), (C) or (D) of subsection (a)(1),” for “within 15 days after the date of the acquisition notify the payor that such payee is subject to withholding under subsection (a)(1)(D) (or subsection (a)(1)(C) in the case of a notification described in clause (ii)(II)).”

Subsec. (e)(1). Pub. L. 98-369, §152(a), inserted provision that the Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-289, div. C, title III, §3091(e), July 30, 2008, 122 Stat. 2911, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section

[enacting section 6050W of this title and amending this section and section 6724 of this title] shall apply to returns for calendar years beginning after December 31, 2010.

“(2) APPLICATION OF BACKUP WITHHOLDING.—

“(A) IN GENERAL.—The amendment made by subsection (c) [amending this section] shall apply to amounts paid after December 31, 2011.

“(B) ELIGIBILITY FOR TIN MATCHING PROGRAM.—Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986—

“(i) the amendments made this section shall be treated as taking effect on the date of the enactment of this Act [July 30, 2008], and

“(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to amounts paid after the 60th day after June 7, 2001, and references to income brackets and rates of tax in such amendment to be applied without regard to section 1(i)(1)(D) of this title, see section 101(d)(2) of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1935(b), Oct. 24, 1992, 106 Stat. 3032, provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts paid after December 31, 1992.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1521(b) of Pub. L. 99-514 applicable to real estate transactions closing after Dec. 31, 1986, see section 1521(c) of Pub. L. 99-514, set out as a note under section 6045 of this title.

Amendment by section 1523(b)(1) of Pub. L. 99-514 applicable to payments made after Dec. 31, 1986, see section 1523(d) of Pub. L. 99-514, set out as an Effective Date note under section 6050N of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §152(b), July 18, 1984, 98 Stat. 691, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].”

Amendment by section 722(h)(1), (2) of Pub. L. 98-369 applicable as if included in amendments made by Interest and Dividend Tax Compliance Act of 1983, Pub. L. 98-67, see section 722(h)(5)(A) of Pub. L. 98-369, set out as a note under section 643 of this title.

EFFECTIVE DATE

Section applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as an Effective Date of 1983 Amendment note under section 31 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the

first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

[[§§ 3451 to 3456. Repealed. Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369]

Section 3451, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 576, set forth withholding requirements respecting income tax collected at source on interest, dividends, and patronage dividends.

Section 3452, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 577, related to exemptions from withholding requirements.

Section 3453, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 579; Pub. L. 97-354, § 3(i)(1), Oct. 19, 1982, 96 Stat. 1690, defined “payor”.

Section 3454, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 580; Pub. L. 97-354, § 3(i)(2), (3), Oct. 19, 1982, 96 Stat. 1690; Pub. L. 97-424, title V, § 547(b)(3), Jan. 6, 1983, 96 Stat. 2200, defined the terms “interest”, “dividend”, and “patronage dividend”.

Section 3455, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 583, set forth definitions and other special rules.

Section 3456, Pub. L. 97-248, title III, § 301, Sept. 3, 1982, 96 Stat. 585, set forth administrative provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATES; SPECIAL RULES

Pub. L. 97-248, title III, § 308, Sept. 3, 1982, 96 Stat. 591, which provided that the amendments made by sections 301 to 308 [enacting subchapter B (§§ 3451-3456) of chapter 24 of this title and amending sections 31, 274, 275, 643, 661, 3403, 3502, 3507, 6013, 6015, 6042, 6044, 6049, 6051, 6365, 6401, 6413, 6654, 6682, 7205, 7215, 7654, and 7701 of this title] would apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, provided for the delay in applications for payors unable to comply with the requirements of such provisions without undue hardship, provided a temporary rule for certain withholding exemptions, and provided for delays in making deposits, was repealed by Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369.

REPEAL OF WITHHOLDING ON INTEREST AND DIVIDENDS

Pub. L. 98-67, title I, § 102(a)-(d), Aug. 5, 1983, 97 Stat. 369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) IN GENERAL.—Subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding of tax from interest and dividends) [subtitle A (§§ 301-308) of title III of Pub. L. 97-248, which enacted this section and sections 3452 to 3456 of this title, amended sections 31, 274, 275, 643, 661, 3403, 3502, 3507, 6013, 6015, 6042, 6044, 6051, 6365, 6401, 6413, 6654, 6682, 7205, 7215, 7654, and 7701 of this title and enacted provisions set out as a note above] is hereby repealed as of the close of June 30, 1983.

“(b) CONFORMING AMENDMENT.—Except as provided in this section, the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be applied and administered as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

“(c) REPEAL NOT TO APPLY TO AMOUNTS DEDUCTED AND WITHHELD BEFORE SEPTEMBER 2, 1983.—

“(1) IN GENERAL.—If, notwithstanding the repeal made by subsection (a) (and the provisions of subsection (b)), an amount is deducted and withheld before September 2, 1983, under subchapter B of chapter 24 of the Internal Revenue Code of 1986 (as in effect before its repeal by subsection (a)), the repeal made by subsection (a) (and the provisions of subsection (b)) shall not apply to the amount so deducted and withheld.

“(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—Paragraph (1) shall not apply with respect to any payor who elects (at the time and in the manner pre-

scribed by the Secretary of the Treasury or his delegate) to have paragraph (1) not apply.

“(d) ESTIMATED TAX PAYMENTS.—For purposes of determining the amount of any addition to tax under section 6654 of the Internal Revenue Code of 1986 with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of such Code for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, shall be increased by an amount equal to 10 percent of the aggregate amount of payments—

“(1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and

“(2) which (but for the repeal made by subsection (a)) would have been subject to withholding under subchapter B of chapter 24 of such Code (determined without regard to any exemption described in section 3452 of such subchapter B).”

**CHAPTER 25—GENERAL PROVISIONS
RELATING TO EMPLOYMENT TAXES**

Sec.	
3501.	Collection and payment of taxes.
3502.	Nondeductibility of taxes in computing taxable income.
3503.	Erroneous payments.
3504.	Acts to be performed by agents.
3505.	Liability of third parties paying or providing for wages.
3506.	Individuals providing companion sitting placement services.
[3507.	Repealed.]
3508.	Treatment of real estate agents and direct sellers.
3509.	Determination of employer's liability for certain employment taxes.
3510.	Coordination of collection of domestic service employment taxes with collection of income taxes.
3511.	Certified professional employer organizations.
3512.	Treatment of certain persons as employers with respect to motion picture projects.

Editorial Notes

AMENDMENTS

2015—Pub. L. 114-113, div. Q, title III, § 346(b), Dec. 18, 2015, 129 Stat. 3116, added item 3512.

2014—Pub. L. 113-295, div. B, title II, § 206(d)(1), Dec. 19, 2014, 128 Stat. 4071, added item 3511.

2010—Pub. L. 111-226, title II, § 219(b)(3), Aug. 10, 2010, 124 Stat. 2403, struck out item 3507 “Advance payment of earned income credit”.

1994—Pub. L. 103-387, § 2(b)(2), Oct. 22, 1994, 108 Stat. 4074, added item 3510.

1990—Pub. L. 101-508, title XI, § 11801(b)(16), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 3510 “Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984”.

1983—Pub. L. 98-67 repealed amendments made by section 307 of Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 98-21, title I, § 123(b)(2), Apr. 20, 1983, 97 Stat. 88, added item 3510.

1982—Pub. L. 97-248, title II, § 269(d), 270(b), Sept. 3, 1982, 96 Stat. 553, 554, added items 3508 and 3509.

Pub. L. 97-248, title III, §§ 307(b)(5), 308(a), Sept. 3, 1982, 96 Stat. 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the caption of chapter 25 is amended by inserting “AND COLLECTION OF INCOME TAXES AT SOURCE”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue