

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3)(A), (B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 4(d) of the Indian Health Care Improvement Act, referred to in subsec. (b)(3)(D), is classified to section 1603(d) of Title 25, Indians.

CHAPTER 35—TAXES ON WAGERING

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Subchapter A—Tax on Wagers

Sec.	
4401.	Imposition of tax.
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§ 4401. Imposition of tax**(a) Wagers****(1) State authorized wagers**

There shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

(2) Unauthorized wagers

There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager.

(b) Amount of wager

In determining the amount of any wager for the purposes of this subchapter, all charges incident to the placing of such wager shall be included; except that if the taxpayer establishes, in accordance with regulations prescribed by the Secretary, that an amount equal to the tax imposed by this subchapter has been collected as a separate charge from the person placing such wager, the amount so collected shall be excluded.

(c) Persons liable for tax

Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery. Any person required to register under section 4412 who receives wagers for or on behalf of another person without having registered under section 4412 the name and place of residence of such other person shall be liable for and shall pay the tax under this subchapter on all such wagers received by him.

(Aug. 16, 1954, ch. 736, 68A Stat. 525; Pub. L. 85-859, title I, § 151(a), Sept. 2, 1958, 72 Stat. 1304;

¹ Section numbers editorially supplied.

Pub. L. 93-499, §3(a), Oct. 29, 1974, 88 Stat. 1550; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-362, title I, §109(a), Oct. 25, 1982, 96 Stat. 1731.)

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AMENDMENTS

1982—Subsec. (a). Pub. L. 97-362 substituted provision that there shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager and that there shall be imposed on any other wager an excise tax equal to 2 percent of the amount of such wager for provision that there be imposed on wagers, as defined in section 4421, an excise tax equal to 2 percent of the amount thereof.

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1974—Subsec. (a). Pub. L. 93-499 substituted “2 percent” for “10 percent”.

1958—Subsec. (c). Pub. L. 85-859 made all persons required to register under section 4412 of this title who receive wagers for or on behalf of another person without having registered under section 4412 of this title the name and place of residence of such other person liable for the tax on all such wagers received by them.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-362, title I, §109(c)(1), Oct. 25, 1982, 96 Stat. 1731, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1983.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-499, §3(d)(1), Oct. 29, 1974, 88 Stat. 1551, provided that: “The amendments made by this section [enacting section 4424 and amending this section and section 4411 of this title] take effect on December 1, 1974, and shall apply only with respect to wagers placed on or after such date.”

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-859, title I, §151(b), Sept. 2, 1958, 72 Stat. 1304, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to wagers received after the date of the enactment of this Act [Sept. 2, 1958].”

§ 4402. Exemptions

No tax shall be imposed by this subchapter—

(1) Parimutuels

On any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law,

(2) Coin-operated devices

On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or

(3) State-conducted lotteries, etc.

On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.