

**TITLE 26 - INTERNAL REVENUE CODE****Subtitle C - Employment Taxes****CHAPTER 21 - FEDERAL INSURANCE CONTRIBUTIONS ACT****Subchapter B - Tax on Employers****§ 3111. Rate of tax****(a) Old-age, survivors, and disability insurance**

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 percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

In cases of wages paid during:	The rate shall be:
1984, 1985, 1986, or 1987	5.7 percent
1988 or 1989	6.06 percent
1990 or thereafter	6.2 percent.

**(b) Hospital insurance**

In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

- (1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;
- (2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;
- (3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;
- (4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent;
- (5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and
- (6) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.

**(c) Relief from taxes in cases covered by certain international agreements**

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(Aug. 16, 1954, ch. 736, 68A Stat. 416; Sept. 1, 1954, ch. 1206, title II, § 208(c), 68 Stat. 1094; Aug. 1, 1956, ch. 836, title II, § 202(c), 70 Stat. 845; Pub. L. 85–840, title IV, § 401(c), Aug. 28, 1958, 72 Stat. 1042; Pub. L. 87–64, title II, § 201(c), June 30, 1961, 75 Stat. 141; Pub. L. 89–97, title I, § 111(c)(6), title III, § 321(c), July 30, 1965, 79 Stat. 343, 396; Pub. L. 90–248, title I, § 109(a)(3), (b)(3), Jan. 2, 1968, 81 Stat. 836, 837; Pub. L. 92–5, title II, § 204(a)(2), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, § 204(a)(3), (b)(3), July 1, 1972, 86 Stat. 421, 422; Pub. L. 92–603, title I, § 135(a)(3), (b)(3), Oct. 30, 1972, 86 Stat. 1363, 1364; Pub. L. 93–233, § 6(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 954, 955; Pub. L. 94–455, title XIX, § 1903(a)(1), Oct. 4, 1976, 90 Stat. 1806; Pub. L. 95–216, title I, § 101(a)(2), (b)(2), title III, §§ 315(b), 317 (b)(2), Dec. 20, 1977, 91 Stat. 1511, 1512, 1537, 1540; Pub. L. 98–21, title I, § 123(a)(2), Apr. 20, 1983, 97 Stat. 88; Pub. L. 100–203, title IX, § 9006(b)(1), Dec. 22, 1987, 101 Stat.

1330–289; Pub. L. 100–647, title VIII, § 8016(a)(5), Nov. 10, 1988, 102 Stat. 3793; Pub. L. 108–203, title IV, § 415, Mar. 2, 2004, 118 Stat. 530.)

## References in Text

Section 233 of the Social Security Act, referred to in subsec. (c), is classified to section 433 of Title 42, The Public Health and Welfare.

## Amendments

2004—Subsec. (c). Pub. L. 108–203 substituted “exclusively to the laws applicable to” for “to taxes or contributions for similar purposes under”.

1988—Subsecs. (a), (b). Pub. L. 100–647 made technical correction to directory language of Pub. L. 100–203, § 9006(b)(1), see 1987 Amendment note below.

1987—Subsecs. (a), (b). Pub. L. 100–203, as amended by Pub. L. 100–647, struck out “and (t)” after “3121(a)” in introductory provisions.

1983—Subsec. (a). Pub. L. 98–21 substituted table of rates for pars. (1) to (7) which had imposed a tax on every employer (1) with respect to wages paid during the calendar years 1974 through 1977 at the rate of 4.95 percent, (2) with respect to wages paid during the calendar year 1978 at the rate of 5.05 percent, (3) with respect to wages paid during the calendar years 1979 and 1980 at the rate of 5.08 percent, (4) with respect to wages paid during the calendar year 1981 at the rate of 5.35 percent, (5) with respect to wages paid during the calendar years 1982 through 1984 at the rate of 5.40 percent, (6) with respect to wages paid during the calendar years 1985 through 1989 at the rate of 5.70 percent, and (7) with respect to wages paid after Dec. 31, 1989, at the rate of 6.20 percent.

1977—Subsec. (a). Pub. L. 95–216, §§ 101(a)(2), 315 (b), substituted “(as defined in section 3121 (a) and (t))” for “(as defined in section 3121 (a))” in provisions preceding par. (1), substituted “1974 through 1977” for “1974 through 2010” in par. (1), substituted “wages paid during the calendar year 1978, the rate shall be 5.05 percent” for “wages paid after December 31, 2010, the rate shall be 5.95 percent” in par. (2), and added pars. (3) to (7).

Subsec. (b). Pub. L. 95–216, §§ 101(b)(2), 315 (b), substituted “(as defined in section 3121 (a) and (t))” for “(as defined in section 3121 (a))” in provisions preceding par. (1), substituted “wages paid during the calendar year 1978, the rate shall be 1.00 percent” for “wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent”, in par. (2), substituted “wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent” for wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent” in par. (3), substituted “wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent” for “wages paid after December 31, 1985, the rate shall be 1.50 percent” in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 95–216, § 317(b)(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–455, § 1903(a)(1)(A), redesignated pars. (5) and (6) as (1) and (2). Former pars. (1) to (4), which related to a tax rate of 3.8 percent with respect to wages received during the taxable year 1968, a tax rate of 4.2 percent with respect to wages received during the calendar year 1969 and 1970, a tax rate of 4.6 percent with respect to wages received during the calendar years 1971 and 1972, and a tax rate of 4.85 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

Subsec. (b). Pub. L. 94–455, § 1903(a)(1)(B), redesignated pars. (3) to (6) as (1) to (4), respectively. Former pars. (1) and (2), which related to a tax rate of .60 percent with respect to wages received during the calendar years 1968, 1969, 1970, 1971, and 1972 and a tax rate of 1.0 percent with respect to wages received during the calendar year 1973, respectively, were struck out.

1973—Subsec. (a)(4). Pub. L. 93–233, § 6(a)(2), struck out provision for application of 4.85 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (a)(5). Pub. L. 93–233, § 6(a)(2), increased rate of tax from 4.80 percent to 4.95 percent and substituted calendar year “1974” to “1978” as initial year for application of such rate.

Subsec. (a)(6). Pub. L. 93–233, § 6(a)(2), increased rate of tax from 5.85 percent to 5.95 percent.

Subsec. (b)(2). Pub. L. 93–233, § 6(b)(3), struck out provision for application of 1.0 percent rate of tax during calendar years 1974, 1975, 1976, and 1977.

Subsec. (b)(3). Pub. L. 93–233, § 6(b)(3), incorporated former provision of par. (2) for taxation of wages received during calendar years 1974, 1975, 1976, and 1977, decreased the applicable rate of tax from 1.0 percent to 0.90 percent, and struck out provision for 1.25 percent rate of tax for calendar years 1978, 1979, and 1980.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (b)(4). Pub. L. 93–233, § 6(b)(3), incorporated former provision of par. (3) for taxation of wages received during calendar years 1978, 1979, and 1980, decreased the applicable rate of tax from 1.25 percent to 1.10 percent, and struck out provision for 1.35 percent rate of tax for calendar years 1981, 1982, 1983, 1984, and 1985.

Subsec. (b)(5). Pub. L. 93–233, § 6(b)(3), incorporated former provision of par. (4) for taxation of wages received during calendar years 1981 through 1985 at applicable 1.35 percent rate of tax and struck out provision for 1.45 percent rate of tax for wages received after Dec. 31, 1985.

Subsec. (b)(6). Pub. L. 93–233, § 6(b)(3), incorporated former provision of par. (5) for taxation of wages received after Dec. 31, 1985 and increased the applicable rate of tax from 1.45 percent to 1.50 percent.

1972—Subsec. (a)(3). Pub. L. 92–603, § 135(a)(3)(A), substituted “the calendar years 1971 and 1972” for “any of the calendar years 1971 through 1977”.

Subsec. (a)(3) to (5). Pub. L. 92–336, § 204(a)(3), substituted “any of the calendar years 1971 through 1977” for “the calendar years 1971 and 1972” in par. (3), “any of the calendar years 1978 through 2010” for “the calendar years 1973, 1974, and 1975” and “4.5” for “5.0” in par. (4), and “December 31, 2010” for “December 31, 1975” and “5.35” for “5.15” in par. (5).

Subsec. (a)(4). Pub. L. 92–603, § 135(a)(3)(B), substituted “received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;” for “received during any of the calendar years 1978 through 2010, the rate shall be 4.5 percent; and”.

Subsec. (a)(5). Pub. L. 92–603, § 135(a)(3)(B), substituted “received during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and” for “received after December 31, 2010, the rate shall be 5.35 percent”.

Subsec. (a)(6). Pub. L. 92–603, § 135(a)(3)(B), added par. (6).

Subsec. (b)(2). Pub. L. 92–603, § 135(b)(3), increased rate to 1.0 percent from 0.9 percent.

Subsec. (b)(2) to (5). Pub. L. 92–336, § 204(b)(3), inserted references to 1976 and 1977 and substituted “0.9” for “0.65” in par. (2), substituted references for the calendar years 1978 through 1985 for references to the calendar years 1976 through 1979 and substituted “1.0” for “0.70” in par. (3), substituted references for the calendar years 1986 through 1992 for references to the calendars 1980 through 1986 and substituted “1.1” for “0.80” in par. (4), and substituted “1992” and “1986” and “1.2” for “0.9” in par. (5).

Subsec. (b)(3). Pub. L. 92–603, § 135(b)(3), substituted “and 1980, the rate shall be 1.25 percent” for “1980, 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.0 percent”.

Subsec. (b)(4). Pub. L. 92–603, § 135(b)(3), substituted “1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent” for “1986, 1987, 1988, 1989, 1990, 1991, and 1992, the rate shall be 1.1 percent”.

Subsec. (b)(5). Pub. L. 92–603, § 135(b)(3), substituted “1985, the rate shall be 1.45 percent” for “1992, the rate shall be 1.2 percent”.

1971—Subsec. (a)(4). Pub. L. 92–5 substituted “with respect to wages paid during the calendar years 1973, 1974, and 1975, the rate shall be 5.0 percent; and” for “with respect to wages paid after December 31, 1972, the rate shall be 5.0 percent”.

Subsec. (a)(5). Pub. L. 92–5 added par. (5).

1968—Subsec. (a)(1) to (4). Pub. L. 90–248, § 109(a)(3), substituted “1968” and “3.8” for “1966” and “3.85” in par. (1) and “1969 and 1970” and “4.2” for “1967 and 1968” and “3.9” in par. (2), struck out reference to calendar years 1969 and 1970 from par. (3) and substituted therein “4.6” for “4.4”, and substituted “5.0” for “4.85” in par. (4).

Subsecs. (b)(1) to (5). Pub. L. 90–248, § 109(b)(3), struck out par. (1) provision for employer rate of 0.35 percent of wages paid with respect to employment during calendar year 1966, redesignated pars. (2) to (6) as (1) to (5), struck out reference to “1967” in such par. (1) and increased the rate by 0.10 percent to 0.60, 0.65, 0.70, 0.80, and 0.90 in pars. (1) to (5), respectively.

1965—Pub. L. 89–97, § 321(c), divided the total excise tax imposed under the entire section upon employers through a tax equal to percentages of wages paid by him into two separate taxes by dividing the section into subsecs. (a) and (b), with subsec. (a) reflecting the tax for old-age, survivors, and disability insurance, and subsec. (b) reflecting the tax for hospital insurance, but, in the case of subsec. (b), without regard to the provisions of section 3121 (b)(9) insofar as it relates to employees; increased from 41/8 percent to 4.20 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1966 (resulting from a tax of 3.85 percent under subsec. (a) and 0.35 percent under subsec. (b)), increased from 41/8 percent to 4.40 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1967 (resulting from a tax of 3.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), reduced from 45/8 percent to 4.40 percent the rate of total tax imposed by the entire section upon wages paid during calendar year 1968 (resulting from a tax of 3.9 percent under subsec. (a) and 0.50 percent under subsec. (b)), increased from 45/8 percent to 4.90 percent the rate of total tax imposed by the entire section upon wages paid

during the calendar years 1969, 1970, 1971, and 1972 (resulting from a tax of 4.4 percent under subsec. (a) and 0.50 percent under subsec. (b)), increased from 45/8 percent to 5.40 percent the rate for calendar years 1973, 1974, and 1975 (resulting from a tax of 4.85 percent under subsec. (a) and 0.55 percent under subsec. (b)), increased from 45/8 percent to 5.45 percent the rate for calendar years 1976, 1977, 1978, and 1979 (resulting from a tax of 4.85 percent under subsec. (a) and 0.60 percent under subsec. (b)), increased from 45/8 percent to 5.55 percent the rate for calendar years 1980 through 1986 (resulting from a tax of 4.85 percent under subsec. (a) and 0.70 percent under subsec. (b)), and increased the rate from 45/8 percent to 5.65 percent for calendar years after December 31, 1986 (resulting from a tax of 4.85 percent under subsec. (a) and 0.80 percent under subsec. (b)).

Subsec. (b). Pub. L. 89–97, § 111(c)(6), struck out “, but without regard to the provisions of paragraph (9) thereof insofar as it relates to employees” after “as defined in section 3121 (b)”.

1961—Pub. L. 87–64 increased rate of tax for calendar year 1962 from 3 to 31/8 percent, calendar years 1963 to 1965, inclusive, from 31/2 to 35/8 percent, calendar years 1966 and 1967 from 4 to 41/8 percent, calendar year 1968 from 4 to 45/8 percent, and for calendar years after December 31, 1968, from 41/2 to 45/8 percent.

1958—Pub. L. 85–840 increased rate of tax by substituting provisions imposing a tax of 21/2 percent for calendar year 1959, 3 percent for calendar years 1960–62, 31/2 percent for calendar years 1963–65, 4 percent for calendar years 1966–68, and 41/2 percent for calendar years beginning after Dec. 31, 1968, for provisions which imposed a tax of 21/4 percent for calendar years 1957–59, 23/4 percent for calendar years 1960–64, 31/4 percent for calendar years 1965–69, 33/4 percent for calendar years 1970–74, and 41/4 percent for calendar years beginning after Dec. 31, 1974.

1956—Act Aug. 1, 1956, increased rate of tax with respect to wages paid during calendar years 1957 to 1959, and for all calendar years thereafter, by one-quarter percent.

1954—Act Sept. 1, 1954, increased 31/4 percent rate of tax for calendar year 1970 and subsequent years to 31/2 percent for calendar years 1970 to 1974 and 4 percent for 1975 and subsequent years.

### **Effective Date of 1988 Amendment**

Section 8016(b) of Pub. L. 100–647 provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 3121 and 3306 of this title, and sections 405, 410, and 411 of Title 42, The Public Health and Welfare] shall be effective on the date of the enactment of this Act [Nov. 10, 1988].

“(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.] or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.”

### **Effective Date of 1987 Amendment**

Section 9006(c) of Pub. L. 100–203 provided that: “The amendments made by this section [amending this section and section 3121 of this title] shall apply with respect to tips received (and wages paid) on and after January 1, 1988.”

### **Effective Date of 1983 Amendment**

Amendment by Pub. L. 98–21 applicable to remuneration paid after Dec. 31, 1983, see section 123(a)(3) of Pub. L. 98–21, set out as a note under section 3101 of this title.

### **Effective Date of 1977 Amendment**

Amendment by section 101(a)(2), (b)(2) of Pub. L. 95–216 applicable with respect to remuneration paid or received, and taxable years beginning, after 1977, see section 104 of Pub. L. 95–216, set out as a note under section 1401 of this title.

Section 315(c) of Pub. L. 95–216 provided that: “The amendments made by this section [amending this section and section 3121 of this title] shall apply with respect to wages paid with respect to employment performed in months after December 1977.”

### **Effective Date of 1976 Amendment**

Amendment by Pub. L. 94–455 applicable with respect to wages paid 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 1973 Amendment**

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after December 31, 1973, see section 6(c) of Pub. L. 93–233, set out as a note under section 1401 of this title.

### **Effective Date of 1972 Amendments**

Amendment by Pub. L. 92–603 applicable only with respect to remuneration paid after Dec. 31, 1972, see section 135(c) of Pub. L. 92–603, set out as a note under section 1401 of this title.

Amendment by Pub. L. 92–336 applicable only with respect to remuneration paid after December 31, 1972, see section 204(c) of Pub. L. 92–336, set out as a note under section 1401 of this title.

### **Effective Date of 1971 Amendment**

Amendment by Pub. L. 92–5 applicable only with respect to remuneration paid after Dec. 31, 1971, see section 204(b) of Pub. L. 92–5, set out as a note under section 3101 of this title.

### **Effective Date of 1968 Amendment**

Amendment by Pub. L. 90–248 applicable only with respect to remuneration paid after Dec. 31, 1967, see section 109(c) of Pub. L. 90–248, set out as a note under section 1401 of this title.

### **Effective Date of 1965 Amendment**

Amendment by section 111(c)(6) 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 (section 3201 et seq. of this title) 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.

Amendment by section 321(c) of Pub. L. 89–97 applicable with respect to remuneration paid after December 31, 1965, see section 321(d) of Pub. L. 89–97, set out as a note under section 1401 of this title.

### **Effective Date of 1961 Amendment**

Amendment by Pub. L. 87–64 applicable with respect to remuneration paid after Dec. 31, 1961, see section 201(d) of Pub. L. 87–64, set out as a note under section 1401 of this title.

### **Effective Date of 1958 Amendment**

Amendment by Pub. L. 85–840 applicable with respect to remuneration paid after Dec. 31, 1958, see section 401(d) of Pub. L. 85–840, set out as a note under section 1401 of this title.

### **Effective Date of 1956 Amendment**

Amendment by act Aug. 1, 1956, applicable with respect to remuneration paid after Dec. 31, 1956, see section 202(d) of such act Aug. 1, 1956, set out as a note under section 1401 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 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.