

**TITLE 26 - INTERNAL REVENUE CODE****Subtitle F - Procedure and Administration****CHAPTER 61 - INFORMATION AND RETURNS****Subchapter A - Returns and Records****PART III - INFORMATION RETURNS****Subpart C - Information Regarding Wages Paid Employees****§ 6051. Receipts for employees****(a) Requirement**

Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31, a written statement showing the following:

- (1) the name of such person,
- (2) the name of the employee (and his social security account number if wages as defined in section 3121 (a) have been paid),
- (3) the total amount of wages as defined in section 3401 (a),
- (4) the total amount deducted and withheld as tax under section 3402,
- (5) the total amount of wages as defined in section 3121 (a),
- (6) the total amount deducted and withheld as tax under section 3101,
- (7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit),
- (8) the total amount of elective deferrals (within the meaning of section 402 (g)(3)) and compensation deferred under section 457, including the amount of designated Roth contributions (as defined in section 402A),
- (9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129 (d),
- (10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit),
- (11) the amount contributed to any Archer MSA (as defined in section 220(d)) of such employee or such employee's spouse,
- (12) the amount contributed to any health savings account (as defined in section 223(d)) of such employee or such employee's spouse, and
- (13) the total amount of deferrals for the year under a nonqualified deferred compensation plan (within the meaning of section 409A (d)).

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121 (a), computed in accordance with such section and section 3121 (i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121 (a), computed in accordance with such section and

section 3121 (i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053 (a). The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101 (c) and 3111 (c) from the taxes imposed by sections 3101 and 3111. In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.

**(b) Special rule as to compensation of members of Armed Forces**

In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401 (a)).

**(c) Additional requirements**

The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. The statements required under this section shall also show the proportion of the total amount withheld as tax under section 3101 which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

**(d) Statements to constitute information returns**

A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary shall, when required by such regulations, be filed with the Secretary.

**(e) Railroad employees**

**(1) Additional requirement**

Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101 (b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101 (b).

**(2) Information to be supplied to employees**

Each person required to deduct and withhold tax under section 3201 during any year from an employee who has also received wages during such year subject to the tax imposed by section 3101 (b) shall, upon request of such employee, furnish to him a written statement showing—

- (A) the total amount of compensation with respect to which the tax imposed by section 3201 was deducted,
- (B) the total amount deducted as tax under section 3201, and
- (C) the portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.

**(f) Statements required in case of sick pay paid by third parties**

**(1) Statements required from payor**

**(A) In general**

If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

- (i) the name and, if there is withholding under section 3402 (o), the social security number of such employee,
- (ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and
- (iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term “third-party sick pay” means any sick pay (as defined in section 3402 (o)(2)(C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402 (o)(1)).

**(B) Special rules**

- (i) Statements are in lieu of other reporting requirements

The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

- (ii) Penalties made applicable

For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

**(2) Information required to be furnished by employer**

Every employer who receives a statement under paragraph (1)(A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

- (A) the information shown on the statement furnished under paragraph (1)(A), and
- (B) if any portion of the sick pay is excludable from gross income under section 104 (a)(3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Aug. 1, 1956, ch. 837, title IV, § 412, 70 Stat. 879; Pub. L. 87–293, title II, § 202(a)(4), Sept. 22, 1961, 75 Stat. 626; Pub. L. 89–97, title I, § 107, title III, § 313(e)(1), July 30, 1965, 79 Stat. 337, 384; Pub. L. 90–248, title V, § 502(c)(1), (2), Jan. 2, 1968, 81 Stat. 934; Pub. L. 91–172, title VIII, § 805(f)(2), Dec. 30, 1969, 83 Stat. 708; Pub. L. 92–603, title II, § 293(a)–(c), Oct. 30, 1972, 86 Stat. 1459; Pub. L. 93–406, title II, § 1022(k), Sept. 2, 1974, 88 Stat. 943; Pub. L. 94–455, title XIX, § 1906(a)(5), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 95–216, title III, § 317(b)(3), Dec. 20, 1977, 91 Stat. 1540; Pub. L. 95–600, title I, § 105(c), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96–601, § 4(e), Dec. 24, 1980, 94 Stat. 3497; Pub. L. 97–248, title III, §§ 307(a)(7), 308 (a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 97–362, title I, § 107(a), Oct. 25, 1982, 96 Stat. 1731; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–514, title XI, § 1105(b), Oct. 22, 1986, 100 Stat. 2419; Pub. L. 100–647, title I, §§ 1011B(c)(2)(B), 1018 (u)(33), Nov. 10, 1988, 102 Stat. 3489, 3592; Pub. L. 103–465, title VII, § 721(b), Dec. 8, 1994, 108 Stat. 5002; Pub. L. 104–191, title III, § 301(c)(3), Aug. 21, 1996, 110 Stat. 2049; Pub. L. 106–554, § 1(a)(7) [title II, § 202(a)(9)], Dec. 21, 2000, 114 Stat. 2763, 2763A–629; Pub. L. 107–16, title VI, § 617(d)(1), June 7, 2001, 115 Stat. 105; Pub. L. 108–173, title XII, § 1201(d)(3), Dec. 8, 2003, 117 Stat. 2477; Pub. L. 108–357, title VIII, § 885(b)(1), Oct. 22, 2004, 118 Stat. 1639.)

## References in Text

The Peace Corps Act, referred to in subsec. (a), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Social Security Act, referred to in subsecs. (c) and (e)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Part A of title XVIII of the Social Security Act is classified to part A (§ 1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## Amendments

2004—Subsec. (a). Pub. L. 108–357, § 885(b)(1)(B), inserted at end of concluding provisions “In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.”

Subsec. (a)(13). Pub. L. 108–357, § 885(b)(1)(A), added par. (13).

2003—Subsec. (a)(12). Pub. L. 108–173 added par. (12).

2001—Subsec. (a)(8). Pub. L. 107–16 inserted “, including the amount of designated Roth contributions (as defined in section 402A)” before comma at end.

2000—Subsec. (a)(11). Pub. L. 106–554 substituted “Archer MSA” for “medical savings account”.

1996—Subsec. (a)(11). Pub. L. 104–191 added par. (11).

1994—Subsec. (a)(10). Pub. L. 103–465 added par. (10).

1988—Subsec. (a)(7). Pub. L. 100–647, § 1018(u)(33), inserted a comma at end.

Subsec. (a)(9). Pub. L. 100–647, § 1011B(c)(2)(B), added par. (9).

1986—Subsec. (a)(8). Pub. L. 99–514 added par. (8).

1983—Subsec. (f)(1)(A). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97–362 substituted “within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31” for “on the day on which the last payment of remuneration is made”.

Subsec. (f)(1)(A). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1)(A) is amended by inserting “subchapter A of” before “chapter 24”. 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 Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (f). Pub. L. 96–601 added subsec. (f).

1978—Subsec. (a)(7). Pub. L. 95–600 added par. (7).

1977—Subsec. (a). Pub. L. 95–216 directed that the amounts required to be shown by par. (5) shall not include wages which are exempted pursuant to sections 3101 (c) and 3111 (c) from the taxes imposed by sections 3101 and 3111.

1976—Subsec. (a). Pub. L. 94–455, § 1906(a)(5), struck out “and” at end of par. (6), necessitating no change in text, due to Pub. L. 92–603, which made identical amendment in 1972.

Subsecs. (c), (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1974—Subsec. (a). Pub. L. 93–406 inserted “or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash,” after “exemption,”.

1972—Subsec. (a). Pub. L. 92–603, § 293(a), struck out reference to section 3201 of this title in introductory text, par. (7), which required written statement to contain total amount of compensation with respect to which tax imposed by section 3201 was deducted, and par. (8), which required written statement to contain total amount deducted as tax under section 3201.

Subsec. (c). Pub. L. 92–603, § 293(b), struck out reference to section 3201 of this title.

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

Subsec. (e). Pub. L. 92–603, § 293(c), added subsec. (e).

1969—Subsec. (a). Pub. L. 91–172 inserted “(determined without regard to subsection (n))” after “withhold a tax under section 3402” in introductory provisions.

1968—Subsec. (a). Pub. L. 90–248, § 502(c)(1), included reference to section 3201 in introductory provisions and added pars. (7) and (8).

Subsec. (c). Pub. L. 90–248, § 502(c)(2), included reference to section 3201 in second sentence.

1965—Subsec. (a). Pub. L. 89–97, § 313(e)(1), inserted last sentence providing for inclusion of tips received by an employee in the course of his employment.

Subsec. (c). Pub. L. 89–97, § 107, required the statements to show the proportion of the total amount withheld as tax under section 3101 which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

1961—Subsec. (a). Pub. L. 87–293 provided a special rule with respect to the information to be contained on employees’ tax receipts in the case of remuneration paid to volunteers and volunteer leaders in the Peace Corps.

1956—Subsec. (a). Act Aug. 1, 1956, § 412(a), inserted provisions prescribing contents of statement in the case of compensation paid for service as a member of the uniformed services.

Subsec. (b). Act Aug. 1, 1956, § 412(b), required the furnishing of a statement if during the calendar year any amount was required to be withheld as tax under section 3101 of this title.

### **Effective Date of 2004 Amendment**

Amendment by Pub. L. 108–357 applicable to amounts deferred after Dec. 31, 2004, with special rules relating to earnings and material modifications and exception for nonelective deferred compensation, see section 885(d) of Pub. L. 108–357, set out as an Effective Date note under section 409A of this title.

### **Effective Date of 2003 Amendment**

Amendment by Pub. L. 108–173 applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108–173, set out as a note under section 62 of this title.

### **Effective Date of 2001 Amendment**

Amendment by Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2005, see section 617(f) of Pub. L. 107–16, set out as a note under section 402 of this title.

### **Effective Date of 1996 Amendment**

Amendment by Pub. L. 104–191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104–191, set out as a note under section 62 of this title.

### **Effective Date of 1994 Amendment**

Amendment by Pub. L. 103–465 applicable to remuneration paid after Dec. 31, 1994, see section 721(d)(2) of Pub. L. 103–465, set out as a note under section 3507 of this title.

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

Amendment by section 1011B(c)(2)(B) of Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1987, see section 1011B(c)(2)(C) of Pub. L. 100–647, set out as a note under section 129 of this title.

Amendment by section 1018(u)(33) 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.

### **Effective Date of 1986 Amendment**

Amendment by Pub. L. 99–514 applicable to calendar years beginning after Dec. 31, 1986, but not applicable to employer contributions made during 1987 and attributable to services performed during 1986 under qualified cash or deferred arrangement (as defined in section 401 (k) of this title) if, under terms of such arrangement as in effect on Aug. 16, 1986, employee makes election with respect to such contribution before Jan. 1, 1987, and employer identifies amount of such contribution before Jan. 1, 1987, see section 1105(c)(5), (6) of Pub. L. 99–514, as amended, set out as a note under section 402 of this title.

### **Effective Date of 1982 Amendment**

Section 107(b) of Pub. L. 97-362 provided that: "The amendments made by this section [amending this section] shall apply with respect to employees whose employment is terminated after the date of the enactment of this Act [Oct. 25, 1982]."

### **Effective Date of 1980 Amendment**

Amendment by Pub. L. 96-601 applicable to payments made on or after first day of first calendar month beginning more than 120 days after Dec. 24, 1980, see section 4(f) of Pub. L. 96-601, set out as a note under section 3402 of this title.

### **Effective Date of 1978 Amendment**

Amendment by Pub. L. 95-600 effective with respect to remuneration paid after June 30, 1979, see section 105(g)(2) of Pub. L. 95-600, set out as an Effective Date note under section 3507 of this title.

### **Effective Date of 1974 Amendment**

Amendment by Pub. L. 93-406 applicable to plan years to which part I of subtitle A of title II of Pub. L. 93-406 applies, see section 1024 of Pub. L. 93-406, set out as a note under section 401 of this title. For description of the plan years to which part I applies, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

### **Effective Date of 1972 Amendment**

Section 293(d) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section] shall apply in respect to remuneration paid after December 31, 1971."

### **Effective Date of 1969 Amendment**

Amendment by Pub. L. 91-172 applicable to wages paid after Apr. 30, 1970, see section 805(h) of Pub. L. 91-172, set out as a note under section 3402 of this title.

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

Section 502(c)(3) of Pub. L. 90-248 provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall apply in respect of remuneration paid after December 31, 1967."

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

Amendment by section 313(e)(1) of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of this title.

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

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of this title.

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

Amendment by act Aug. 1, 1956, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

### **Repeals; Amendments and Application of Amendments Unaffected**

Section 202(a)(4) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

### **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

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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.