

bia to whom subchapter I of chapter 63 of this title applies are not entitled to the pay of their offices solely because of their status as officers. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 2061(c)(1) (last sentence), July 2, 1953, ch. 178, §1 '(c)(1) (last sentence)', 67 Stat. 136.

The words "including an officer of a corporation wholly owned or controlled by the United States" are omitted as unnecessary in view of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Rows include [Uncodified], 42 U.S.C. 1370, and [Uncodified] with various dates and statute references.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

MERIT SYSTEMS PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL; AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON APPROPRIATIONS

Pub. L. 101-12, §8(a), (b), Apr. 10, 1989, 103 Stat. 34, as amended by Pub. L. 103-424, §1, Oct. 29, 1994, 108 Stat. 4361; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §§641(a), 642(a)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-365; Pub. L. 107-304, §2(a), (b), Nov. 27, 2002, 116 Stat. 2364, provided that:

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

“(1) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

“(2) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

“(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 [Pub. L. 95-454] (5 U.S.C. 5509 note).”

[Pub. L. 107-304, §2(c), Nov. 27, 2002, 116 Stat. 2364, provided that: “This section [amending section 8(a) of Pub. L. 101-12, set out above] shall be effective as of October 1, 2002.”]

[Pub. L. 104-208, div. A, title I, §101(f) [title VI, §§641(b), 642(b)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-365, provided that the amendments made by sec-

tion 101(f) [title VI, §§641(a), 642(a)] of Pub. L. 104-208 [amending section 8(a) of Pub. L. 101-12, set out above] were to be effective on Oct. 1, 1998.]

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-454, title IX, §903, Oct. 13, 1978, 92 Stat. 1224, provided that: “There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act [For classification of Pub. L. 95-454, see Tables].”

SUBCHAPTER II—WITHHOLDING PAY

§ 5511. Withholding pay; employees removed for cause

(a) Except as provided by subsection (b) of this section, the earned pay of an employee removed for cause may not be withheld or confiscated.

(b) If an employee indebted to the United States is removed for cause, the pay accruing to the employee shall be applied in whole or in part to the satisfaction of any claim or indebtedness due the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 46a, Feb. 24, 1931, ch. 287, 46 Stat. 1415.

In subsection (a), the words “From and after February 24, 1931” are omitted as executed. The word “employee” is coextensive with and substituted for “civil employee of the United States” in view of the definition of “employee” in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5512. Withholding pay; individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the employing agency, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 92-310, title II, §202, June 6, 1972, 86 Stat. 202; Pub. L. 104-316, title I, §103(b), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 82, R.S. §1766.

In subsection (b), reference to the “General Accounting Office” is substituted for “accounting officers of the Treasury” on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words “on request of” are substituted for “if required to do so by” as more accurately reflecting the intent. Reference to the “Attorney General” is substituted for “Solicitor of the Treasury” and “Solicitor” on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of

E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “employing agency” for “General Accounting Office”.

1972—Subsec. (b). Pub. L. 92-310 struck out “and his sureties” after “against the individual”.

§ 5513. Withholding pay; credit disallowed or charge raised for payment

When the Government Accountability Office, on a statement of the account of a disbursing or certifying official of the United States, disallows credit or raises a charge for a payment to an individual in or under an Executive agency otherwise entitled to pay, the pay of the payee shall be withheld in whole or in part until full reimbursement is made under regulations prescribed by the head of the Executive agency from which the payee is entitled to receive pay. This section does not repeal or modify existing statutes relating to the collection of the indebtedness of an accountable, certifying, or disbursing official.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
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| | 5 U.S.C. 46b. | May 26, 1936, ch. 452, 49 Stat. 1374. Aug. 3, 1950, ch. 515, 64 Stat. 393. |

The words “On and after May 26, 1936” are omitted as executed. The word “official” is substituted for “officer” and “officers” as the definition of “officer” in section 2104 excludes a member of a uniformed service. The words “from the United States or from an agency or instrumentality thereof” are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

§ 5514. Installment deduction for indebtedness to the United States

(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 per-

cent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned. All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.

(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

(B) an opportunity to inspect and copy Government records relating to the debt;

(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the

agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.

(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to \$50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(4) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to sections 3711 and 3716–3718 of title 31 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

(5) For purposes of this subsection—

(A) “disposable pay” means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

(B) “agency” includes executive departments and agencies, the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality described in section 2105(c) of this title, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

(b)(1) The head of each agency shall prescribe regulations, subject to the approval of the President, to carry out this section and section 3530(d) of title 31. Regulations prescribed by the Secretaries of the military departments shall be uniform for the military services insofar as practicable.

(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.

(c) Subsection (a) of this section does not modify existing statutes which provide for forfeiture of pay or allowances. This section and section 3530(d) of title 31 do not repeal, modify, or amend section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37.

(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.

(e) An employee of a nonappropriated fund instrumentality described in section 2105(c) of this title is deemed an employee covered by this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 96–54, §2(a)(2), Aug. 14, 1979, 93 Stat. 381; Pub. L. 97–258, §3(a)(12), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97–365, §5, Oct. 25, 1982, 96 Stat. 1751; Pub. L. 97–452, §2(a)(2), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–216, §3(a)(4), Feb. 14, 1984, 98 Stat. 6; Pub.

L. 104–134, title III, §31001(h), Apr. 26, 1996, 110 Stat. 1321–363; Pub. L. 109–435, title VI, §604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110–181, div. A, title VI, §652, Jan. 28, 2008, 122 Stat. 162.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
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| | 5 U.S.C. 46d. | July 15, 1954, ch. 509, §§1, 2, 4, 68 Stat. 482, 483. |
| | 5 U.S.C. 46e. | |

In subsection (a), the words “head of the agency concerned” are substituted for “Secretary of the department concerned or the head of the agency or independent establishment concerned, or one of their designees”. The words “an employee, a member of the armed forces, or a Reserve of the armed forces” are co-extensive with and substituted for “an employee of the United States or any member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, or a reserve component thereof” in view of the definitions in sections 2101 and 2105. The words “basic compensation” are omitted as included in “basic pay”.

In subsection (b), the words “head of each agency” are substituted for “Each Secretary of a department, or head of an agency or independent establishment, as appropriate”. The words “Secretaries of the military departments” are substituted for “Secretaries of the Army, Navy, and Air Force” to conform to the definition of “military department” in section 102.

In subsection (c), the words “section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37” are substituted for “the provisions of the Act of May 22, 1928 (ch. 676, 45 Stat. 698)” in section 4 of the Act of July 15, 1954, on authority of the Acts of Aug. 10, 1956, ch. 1041, §49(b), 70A Stat. 640, and Sept. 7, 1962, Pub. L. 87–649, §12(b), 76 Stat. 497.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subs. (a)(1) and (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(5)(B). Pub. L. 110–181, §652(1), inserted “any nonappropriated fund instrumentality described in section 2105(c) of this title,” after “Commission.”

Subsec. (e). Pub. L. 110–181, §652(2), added subsec. (e).

2006—Subsec. (a)(5)(B). Pub. L. 109–435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

1996—Subsec. (a)(1). Pub. L. 104–134, §31001(h)(A)(i), inserted at end “All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.”

Subsec. (a)(3), (4). Pub. L. 104–134, §31001(h)(A)(ii), (iii), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (a)(5). Pub. L. 104-134, §31001(h)((A)(ii), redesignated par. (4) as (5).

Subsec. (a)(5)(B). Pub. L. 104-134, §31001(h)(A)(iv), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “‘agency’ includes the United States Postal Service and the Postal Rate Commission.”

Subsec. (d). Pub. L. 104-134, §31001(h)(B), added subsec. (d).

1984—Subsec. (c). Pub. L. 98-216 substituted “section 3530(d)” for “section 581d”.

1983—Subsec. (a)(3). Pub. L. 97-452 substituted “sections 3711 and 3716-3718 of title 31” for “the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)”.

1982—Pub. L. 97-365, §5(c), substituted “indebtedness to the United States” for “indebtedness because of erroneous payment” in section catchline.

Subsec. (a). Pub. L. 97-365, §5(a), designated existing provisions as par. (1), in par. (1) as so designated substituted provisions relating to debts to which the United States is entitled to be repaid for provisions which had related to an indebtedness to the United States because of an erroneous payment made by an agency to or on behalf of an individual, inserted provisions relating to the notification of a debt by the head of another agency or his designee, substituted provisions authorizing the deduction of not to exceed 15 percent of disposable pay for provisions which had authorized the deduction of not to exceed two-thirds of the pay from which the deduction was made, and added pars. (2), (3), and (4).

Subsec. (b). Pub. L. 97-365, §5(b), designated existing provisions as par. (1) and added par. (2).

Pub. L. 97-258 substituted “section 3530(d)” for “section 581d”.

1979—Subsec. (b). Pub. L. 96-54 substituted “President” for “Director of the Bureau of the Budget”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97-365 provided: “That this Act [enacting sections 954 and 955 of former Title 31, Money and Finance, amending this section and section 552a of this title, section 1114 of Title 18, Crimes and Criminal Procedure, sections 6103 and 7213 of Title 26, Internal Revenue Code, section 2415 of Title 28, Judiciary and Judicial Procedure, and sections 484, 951, and 952 of former Title 31, and enacting provisions set out as notes under this section and section 6103 of Title 26] may be cited as the ‘Debt Collection Act of 1982’.”

DELEGATION OF FUNCTIONS

Authority of President under subsec. (b) of this section to approve regulations prescribed by head of each agency to carry out this section and section 581d of Title 31, Money and Finance [31 U.S.C. 3530(d)], relating to installment deductions from pay for indebtedness because of erroneous payment, delegated to Office of Personnel Management, see section 8(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

IMPROVEMENTS IN DEBT COLLECTION PROCEDURES UNDER 1982 AMENDMENTS AS CONTAINED IN DEBT COLLECTION ACT OF 1982 INAPPLICABLE TO CLAIMS OR INDEBTEDNESS UNDER INTERNAL REVENUE CODE, SOCIAL SECURITY ACT, OR TARIFF LAWS

Section 8(e) of Pub. L. 97-365, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section [amending sections 6103 and 7213 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 6103 of Title 26], nothing in this Act (or in the amendments made by this Act) [see Short Title of 1982 Amendment

note above] shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1986 [Title 26], the Social Security Act [section 301 et seq. of Title 42, The Public Health and Welfare], or the tariff laws of the United States [Title 19, Customs Duties].”

COLLECTION OF INDEBTEDNESS OF EMPLOYEES OF FEDERAL GOVERNMENT RESULTING FROM ACTION OR SUIT BROUGHT AGAINST EMPLOYEE BY UNITED STATES

Pub. L. 97-276, §124, Oct. 2, 1982, 96 Stat. 1195, provided that: “Notwithstanding any other provision of this joint resolution [Pub. L. 97-276], in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due to the individual from the United States Treasury.”

§5515. Crediting amounts received for jury or witness service

An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 91-563, §2(a), Dec. 19, 1970, 84 Stat. 1476; Pub. L. 104-186, title II, §215(5), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 111-145, §7(c)(1), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
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| | 5 U.S.C. 30p. | June 29, 1940, ch. 446, §3, 54 Stat. 689. |

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Pub. L. 111-145 substituted “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police” for “or the Chief Administrative Officer of the House of Representatives”.

1996—Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1970—Pub. L. 91-563 substituted “jury or witness service” for “jury service in State courts” in section catchline.

Pub. L. 91-563 authorized crediting of amounts received for jury service in courts in the District of Columbia and in territories or possessions of the United States, included amounts received for service as a witness or when performing official duty under section 6322(b) of this title, and excepted individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-145 effective as though enacted as part of section 1018 of Pub. L. 108-7, see section 7(d) of Pub. L. 111-145, set out as a note under section 2107 of this title.

§ 5516. Withholding District of Columbia income taxes

(a) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the Mayor of the District of Columbia within 120 days of a request for agreement from the Mayor. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of subchapter II of chapter 15 of title 47, District of Columbia Code, in the case of employees of the agency who are subject to income taxes imposed by that subchapter and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay of an employee who is not a resident of the District of Columbia as defined in subchapter II of chapter 15 of title 47, District of Columbia Code. In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting “who are residents of the District of Columbia” for “whose regular place of employment is within the District of Columbia”. For the purpose of this subsection, “employee” has the meaning given it by section 1551c(z) of title 47, District of Columbia Code.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 90-623, §1(9), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 94-455, title XII, §1207(a)(2), Oct. 4, 1976, 90 Stat. 1705; Pub. L. 96-54, §2(a)(30), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
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| | [Uncodified]. | Mar. 31, 1956, ch. 154, §11 “(k)”, 70 Stat. 77. |

Section 2(c) “(z)” of the Act of Mar. 31, 1956, 70 Stat. 68 (section 1551c(z) of title 47, District of Columbia Code) contains a definition of “employee” that is applicable to this section. Accordingly, the last sentence of subsection (a) is added to preserve the application of the source law.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-54 substituted “Mayor” for “Commissioner” wherever appearing.

1976—Pub. L. 94-455 struck out “pay for service as a member of the armed forces, or to” after “The agreement may not apply to” and inserted provision that in the case of service as a member of the armed forces, the second sentence shall be applied by substituting “who are residents of the District of Columbia” for “whose regular place of employment is within the District of Columbia”.

1968—Subsec. (a). Pub. L. 90-623 substituted “Commissioner” for “Commissioners” in two places.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1207(f)(1) of Pub. L. 94-455 provided that: “The amendments made by subsection (a) [amending this section and section 5517 of this title] shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act [Oct. 4, 1976].”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made”.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, “State” means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms “serve as a member of the armed forces” and “service as a member of the Armed Forces” include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 94-455, title XII, § 1207(a)(1), (b), (c), Oct. 4, 1976, 90 Stat. 1704, 1705; Pub. L. 100-180, div. A, title V, § 505(1), Dec. 4, 1987, 101 Stat. 1086; Pub. L. 103-337, div. A, title XVI, § 1677(a)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 105-34, title XIV, § 1462(a), Aug. 5, 1997, 111 Stat. 1057.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|--|
| | 5 U.S.C. 84b. | July 17, 1952, ch. 940, § 1, 66 Stat. 765. Sept. 23, 1959, Pub. L. 86-371 “Sec. 1”, 73 Stat. 653. |
| | 5 U.S.C. 84c. | July 17, 1952, ch. 940, § 2, 66 Stat. 766. Sept. 23, 1959, Pub. L. 86-371 “Sec. 2”, 73 Stat. 653. |

In subsection (b), the words “after March 31, 1959” are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34 substituted “, territory, possession, or commonwealth” for “or territory or possession”.

1994—Subsec. (d)(2). Pub. L. 103-337 substituted “section 10147” for “section 270(a)”.

1987—Subsec. (d). Pub. L. 100-180 struck out “do not” before “include”.

1976—Subsec. (a). Pub. L. 94-455, § 1207(a)(1), (c), inserted in par. (1) provision relating to the grant to employers of the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld, inserted in par. (2) “or grants the authority” after “imposes the duty”, and substituted in text following par. (2) provisions that in the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made” for provision that the agreement may not apply to pay for service as a member of the armed forces.

Subsec. (d). Pub. L. 94-455, § 1207(b), added subsec. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1462(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(a)(1) of Pub. L. 94-455 applicable to wages withheld after the 120-day period following any request for an agreement after Oct. 4, 1976, see section 1207(f)(1) of Pub. L. 94-455, set out as a note under section 5516 of this title.

Section 1207(f)(2) of Pub. L. 94-455 provided that: “The amendments made by subsections (b) and (c) [amending this section] shall apply to wages withheld after the 120-day period following the date of the enactment of this Act [Oct. 4, 1976].”

EXECUTIVE ORDER NO. 10407

Ex. Ord. No. 10407, Nov. 7, 1952, 17 F.R. 10132, which related to regulations governing agreements concerning withholding of state or territorial income taxes, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out as a note under section 5520 of this title.

§ 5518. Deductions for State retirement systems; National Guard employees

When—

(1) a State statute provides for the payment of employee contributions to a State employee retirement system or to a State sponsored plan providing retirement, disability, or death benefits, by withholding sums from the pay of State employees and making returns of the sums withheld to State authorities or to the person or organization designated by State authorities to receive sums withheld for the program; and

(2) individuals employed by the Army National Guard and the Air National Guard, except employees of the National Guard Bureau, are eligible for membership in a State employee retirement system or other State sponsored plan;

the Secretary of Defense, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Department of Defense shall comply with the requirements of State statute as to the individuals named by paragraph (2) of this section who are eligible for membership in the State employee retirement system. The disbursing officials paying these individuals shall withhold and pay to the State employee retirement system or to the person or organization designated by State authorities to receive sums withheld for the program the employee contributions for these individuals. For the purpose of this section, “State” means a State or territory or possession of the United States including the Commonwealth of Puerto Rico.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 479.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 84d. | June 15, 1956, ch. 390, 70 Stat. 283. Sept. 13, 1961, Pub. L. 87-224, § 1, 75 Stat. 496. |

The words “individuals employed by” and the word “individuals” are substituted for “civilian employees of” and “employees”, respectively, in view of the definition of “employee” in section 2105 which is limited to

those employed by the Government of the United States. The word "civilian" is omitted as unnecessary as military personnel are not "employed". The words "disbursing officials" are substituted for "disbursing officers" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10996. WITHHOLDING OF COMPENSATION FOR STATE AND STATE-SPONSORED EMPLOYEE RETIREMENT, DISABILITY, OR DEATH BENEFITS PROGRAMS

Ex. Ord. No. 10996, Feb. 16, 1962, 27 F.R. 1521, provided:

By virtue of the authority vested in me by the act of June 15, 1956, as amended, 75 Stat. 496 (5 U.S.C. 84d) [now this section], and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order, the term:

(a) "Employees" means civilian employees of the Army National Guard or Air National Guard of a State who are employed pursuant to section 709 of title 32 of the United States Code, and paid from Federal, appropriated funds.

(b) "State" means one of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

SEC. 2. Each agreement between the Secretary of Defense and the Governor or other proper official of a State, pursuant to the provisions of the act of June 15, 1956, as amended, with respect to withholding of compensation of certain civilian employees of the Army National Guard and the Air National Guard for purposes of State or State-sponsored employee retirement, disability, or death benefits systems, shall be entered into by the Secretary of Defense within one hundred and twenty days of the receipt of a request therefor by the Secretary from the Governor or any other proper official of any State; *Provided*, that—

(a) the law of such State provides for the payment of employee contributions to such State or State-sponsored employee retirement, disability, or death benefits systems by withholding sums from the compensation of such State employees and making returns of such sums to officials of such State or organization designated by such officials to receive sums withheld for such programs;

(b) civilian employees of the Army National Guard and the Air National Guard, other than those employed by the National Guard Bureau, are eligible for membership in a State retirement, disability, or death benefits system; and

(c) each such agreement is consistent with the provisions of the said act of June 15, 1956, as amended, and of rules and regulations issued thereunder, and contains a clause that it shall be subject to any amendments of the said act, including amendments occurring after the effective date of such agreement.

SEC. 3. Each such agreement shall:

(a) Provide that the Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall comply with the requirements of such State law in the case of employee subject to the said act of June 15, 1956, as amended, who are eligible for membership in such retirement, disability, or death benefits system for State employees;

(b) Specify when the withholding of sums from the compensation of such State employees shall commence; and

(c) Provide for procedures for the withholding, the filing of the returns, and the payment of the sums withheld from compensation to the officials of the State, or organization designated by such officials to receive sums withheld for such programs, which procedures shall conform, so far as practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force, respectively.

SEC. 4. The Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold sums from compensation, file required returns, and direct the payment of sums so withheld, in accordance with the terms of the agreements entered into between the Secretary of Defense and the States.

SEC. 5. Nothing in this order, or in rules or regulations issued thereunder, or in any agreement entered into pursuant thereto, shall be construed as giving consent to the application of any provision of law of any State which has the effect of imposing more burdensome requirements upon the United States than it imposes upon departments, agencies, or political subdivisions of the State concerned, with respect to employees thereof who are members of the State or State-sponsored retirement, disability, or death benefits system, or which has the effect of subjecting the United States or any of its officers or employees to any penalty or liability.

SEC. 6. I hereby delegate to the Secretary of Defense authority to prescribe such rules and regulations, not inconsistent herewith, as may be necessary to effectuate further the provisions of the said act of June 15, 1956, as amended, or of this order.

SEC. 7. Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 8. This order supersedes Executive Order No. 10679 of September 20, 1956.

JOHN F. KENNEDY.

§ 5519. Crediting amounts received for certain Reserve or National Guard service

An amount (other than a travel, transportation, or per diem allowance) received by an employee or individual for military service as a member of the Reserve or National Guard for a period for which he is granted military leave under section 6323(b) or (c) shall be credited against the pay payable to the employee or individual with respect to his civilian position for that period.

(Added Pub. L. 90-588, § 2(b), Oct. 17, 1968, 82 Stat. 1152; amended Pub. L. 102-378, § 2(39), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 104-106, div. A, title V, § 516(b), Feb. 10, 1996, 110 Stat. 309.)

AMENDMENTS

1996—Pub. L. 104-106 substituted "granted military leave" for "entitled to leave".

1992—Pub. L. 102-378 substituted "6323(b) or (c)" for "6323(c) or (d) of this title".

§ 5520. Withholding of city or county income or employment taxes

(a) When a city or county ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city or county officer, department, or instrumentality; and

(2) imposes the duty to withhold generally on the payment of compensation earned with-

in the jurisdiction of the city or county in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city or county within 120 days of a request for agreement by the proper city or county official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (ii) is a resident of such city or county. The agreement may not apply to pay for service as a member of the Armed Forces (other than service described in section 5517(d) of this title). The agreement may not permit withholding of a city or county tax from the pay of an employee who is not a resident of, or whose regular place of Federal employment is not within, the State in which that city or county is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city or county for services performed in withholding city or county income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) “city” means any unit of general local government which—

(A) is classified as a municipality by the Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury—

(i) possesses powers and performs functions comparable to those associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(2) “county” means any unit of local general government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(3) “ordinance” means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the State in which it is located and which has the force of law within such city or county; and

(4) “agency” means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(Added Pub. L. 93-340, §1(a), July 10, 1974, 88 Stat. 294; amended Pub. L. 94-358, §1, July 12, 1976, 90 Stat. 910; Pub. L. 95-30, title IV, §408(a), May 23, 1977, 91 Stat. 157; Pub. L. 95-365, §1, Sept. 15, 1978, 92 Stat. 599; Pub. L. 100-180, div. A, title V, §505(2), Dec. 4, 1987, 101 Stat. 1086.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-180 inserted “(other than service described in section 5517(d) of this title)” after “Armed Forces” in penultimate sentence.

1978—Subsec. (a). Pub. L. 95-365 designated existing provisions as cl. (i), inserted “, or whose regular place of Federal employment is not within,” after “not a resident of”, and added cl. (ii).

1977—Pub. L. 95-30, §408(a)(1), inserted “or county” after “city” in section catchline.

Subsec. (a). Pub. L. 95-30, §408(a)(2), (3), substituted “city or county” for “city” in introductory provisions preceding par. (1), in par. (2), and in provisions following par. (2), and, in par. (1), substituted “a designated city or county officer, department, or instrumentality” for “the city”.

Subsec. (b). Pub. L. 95-30, §408(a)(2), substituted “city or county” for “city”.

Subsec. (c). Pub. L. 95-30, §408(a)(4), (5), added pars. (2) and (3) and redesignated former par. (2) as (4).

1976—Subsec. (c)(1). Pub. L. 94-358 substituted provision defining a city, for purposes of this section, as any unit of general local government which is classified a municipality by the Bureau of the Census, or is a town or township which in the opinion of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places, as defined by the Bureau of the Census, within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government, for provision defining a city, for purposes of this section, as a city which is duly incorporated under the laws of a State and within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95-365 provided that: “The amendments made by the first section of this Act [amending this section] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 15, 1978].”

EFFECTIVE DATE OF 1977 AMENDMENT

Section 408(c) of Pub. L. 95-30 provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [May 23, 1977].”

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-358 provided that: “The amendment made by the first section of this Act [amending this section] shall take effect on the date of the enactment of this Act [July 12, 1976].”

EFFECTIVE DATE

Section 3 of Pub. L. 93-340 provided that: “This section shall become effective on the date of enactment of this Act [July 10, 1974]. The provisions of the first section and section 2 of this Act [enacting this section and amending section 410 of Title 39, Postal Service] shall become effective on the ninetieth day following the date of enactment.”

EXECUTIVE ORDER NO. 11833

Ex. Ord. No. 11833, Jan. 13, 1975, 40 F.R. 2673, which related to the withholding of city income or employment

taxes by Federal agencies, was revoked by Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25413, formerly set out below.

EXECUTIVE ORDER No. 11863

Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25431, which related to the withholding of city income or employment taxes by Federal agencies, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out below.

EXECUTIVE ORDER No. 11968

Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, which related to the withholding of District of Columbia, State and city income or employment taxes, was revoked by Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, set out below.

EX. ORD. NO. 11997. WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY AND COUNTY INCOME OR EMPLOYMENT TAXES

Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, provided:

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to authorize the Secretary of the Treasury to provide for the withholding of county income or employment taxes as authorized by Section 5520 of Title 5 of the United States Code as amended by Section 408 of Public Law 95-30, as well as to provide for the withholding of District of Columbia, State and city income or employment taxes, it is hereby ordered as follows:

SECTION 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517 or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, a city or a county, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

SEC. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State, city or county income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law; or city or county ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, a State, a city or a county shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

SEC. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the new applicable agreement.

SEC. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and this Order.

SEC. 5. Executive Order No. 11968 of January 31, 1977, is hereby revoked. However, all actions heretofore

taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

JIMMY CARTER.

§ 5520a. Garnishment of pay

(a) For purposes of this section—

(1) “agency” means each agency of the Federal Government, including—

(A) an executive agency, except for the Government Accountability Office;

(B) the United States Postal Service and the Postal Regulatory Commission;

(C) any agency of the judicial branch of the Government; and

(D) any agency of the legislative branch of the Government, including the Government Accountability Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;

(2) “employee” means an employee of an agency (including a Member of Congress as defined under section 2106);

(3) “legal process” means any writ, order, summons, or other similar process in the nature of garnishment, that—

(A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and

(B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney’s fees, interest, or court costs; and

(4) “pay” means—

(A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay or otherwise; and

(B) does not include awards for making suggestions.

(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.

(c)(1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—

(A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or

(B) the head of such agency, if no agent has been so designated.

(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.

(d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section. In determining the amount of any payment due from, or payable by, an agency to an employee, there shall be excluded those amounts which would be excluded under section 462(g) of the Social Security Act (42 U.S.C. 662(g)).

(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

(2) A legal process to which an agency is subject under section 459 of the Social Security Act (42 U.S.C. 659) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

(i) The provisions of this section shall not modify or supersede the provisions of section 459 of the Social Security Act (42 U.S.C. 659) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

(j)(1) Regulations implementing the provisions of this section shall be promulgated—

(A) by the President or his designee for each executive agency, except with regard to employees of the United States Postal Service, the President or, at his discretion, the Postmaster General shall promulgate such regulations;

(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

(k)(1) No later than 180 days after the date of the enactment of this Act, the Secretaries of the Executive departments concerned shall promulgate regulations to carry out the purposes of this section with regard to members of the uniformed services.

(2) Such regulations shall include provisions for—

(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.); and

(B) consideration for the absence of a member of the uniformed service from an appearance in a judicial proceeding resulting from the exigencies of military duty.

(3) The Secretaries of the Executive departments concerned shall promulgate regulations under this subsection that are, as far as practicable, uniform for all of the uniformed services. The Secretary of Defense shall consult with the Secretary of Homeland Security with regard to the promulgation of such regulations that might affect members of the Coast Guard when the Coast Guard is operating as a service in the Navy.

(Added Pub. L. 103-94, §9(a), Oct. 6, 1993, 107 Stat. 1007; amended Pub. L. 104-106, div. A, title VI, §643, Feb. 10, 1996, 110 Stat. 368; Pub. L. 104-193, title III, §362(b)(2), Aug. 22, 1996, 110 Stat. 2246; Pub. L. 105-85, div. A, title XI, §1105, Nov. 18, 1997, 111 Stat. 1923; Pub. L. 108-189, §2(b)(1), Dec. 19, 2003, 117 Stat. 2865; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-241, title IX, §902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (k)(1), probably means the date of enactment of Pub. L. 103-94, which enacted this section and was approved Oct. 6, 1993.

The Servicemembers Civil Relief Act, referred to in subsec. (k)(2)(A), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

Subsec. (k)(3). Pub. L. 109-241 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

2004—Subsec. (a)(1)(A), (D). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2003—Subsec. (k)(2)(A). Pub. L. 108-189 substituted “Servicemembers Civil Relief Act” for “Soldiers’ and Sailors’ Civil Relief Act of 1940”.

1997—Subsec. (j)(2). Pub. L. 105-85, §1105(1), added par. (2) and struck out former par. (2) which read as follows: “Such regulations shall provide that an agency’s administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.”

Subsec. (k)(3), (4). Pub. L. 105-85, §1105(2), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.”

Subsec. (l). Pub. L. 105-85, §1105(3), struck out subsec. (l) which read as follows: “The amount of an agency’s administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.”

1996—Subsecs. (h)(2), (i). Pub. L. 104-193 substituted “section 459 of the Social Security Act (42 U.S.C. 659)” for “sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)”.

Subsec. (j)(2). Pub. L. 104-106, §643(a), added par. (2) and struck out former par. (2) which read as follows: “Such regulations shall provide that an agency’s administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.”

Subsec. (k)(3), (4). Pub. L. 104-106, §643(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (l). Pub. L. 104-106, §643(c), added subsec. (l).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective six months after Aug. 22, 1996, see section 362(d) of Pub. L. 104-193, set out as a note under section 659 of Title 42, The Public Health and Welfare.

For provisions relating to effective date of title III of Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE; SAVINGS PROVISION

Section effective 120 days after Oct. 6, 1993, and not to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as a note under section 7321 of this title.

PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY

Pub. L. 105-261, div. A, title X, §1061, Oct. 17, 1998, 112 Stat. 2128, authorized the Secretary of Defense to conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 659 of Title 42, The Public Health and Welfare, required the Secretary to submit to Congress, not later than Jan. 1, 2001, a report describing the experience of the Department of Defense under the authority provided for the

program, and provided for termination of pilot program on Sept. 30, 2001.

EX. ORD. NO. 12897. GARNISHMENT OF FEDERAL EMPLOYEES’ PAY

Ex. Ord. No. 12897, Feb. 3, 1994, 59 F.R. 5517, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5520a(j)(1)(A) of title 5, United States Code, as added by section 9 of Public Law 103-94, it is hereby ordered as follows:

SECTION 1. The Office of Personnel Management, in consultation with the Attorney General, is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to civilian employees and agencies in the executive branch, except as provided in section 2 of this order.

SEC. 2. The Postmaster General is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to employees of the United States Postal Service.

WILLIAM J. CLINTON.

SUBCHAPTER III—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

§ 5521. Definitions

For the purpose of this subchapter—

- (1) “agency” means— (A) an Executive agency; (B) the judicial branch; (C) the Library of Congress; (D) the Government Printing Office; and (E) the government of the District of Columbia; (2) “employee” means an individual employed in or under an agency; (3) “head of each agency” means— (A) the Director of the Administrative Office of the United States Courts with respect to the judicial branch; and (B) the Mayor of the District of Columbia with respect to the government of the District of Columbia; and (4) “United States”, when used in a geographical sense, means the several States and the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 479; Pub. L. 90-623, §1(10), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 96-54, §2(a)(31), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 3071. Sept. 26, 1961, Pub. L. 87-304, §1, 75 Stat. 662. June 24, 1965, Pub. L. 89-47, 79 Stat. 171.

In paragraph (1), the word “agency” is substituted for “department”. The term “Executive agency” is substituted for the reference to “each executive department of the Government of the United States of America; each agency or independent establishment in the executive branch of such Government; each corporation wholly owned or controlled by such Government” in former section 3071(1)(A)–(C).

Paragraph (2) is added for clarity and in view of the fact that the definition of “employee” in section 2105 does not include individuals employed by the government of the District of Columbia.

In paragraph (3), the term “department head” is omitted as unnecessary.