

TITLE 26 - INTERNAL REVENUE CODE

Subtitle C - Employment Taxes

CHAPTER 25 - GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

§ 3510. Coordination of collection of domestic service employment taxes with collection of income taxes

(a) General rule

Except as otherwise provided in this section—

- (1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,
- (2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and
- (3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

(b) Domestic service employment taxes subject to estimated tax provisions

(1) In general

Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

(2) Employers not otherwise required to make estimated payments

Paragraph (1) shall not apply to any employer for any calendar year if—

- (A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and
- (B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654 (e).

(3) Annualization

Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654 (d)(2) in respect of the amount treated as tax under paragraph (1).

(4) Transitional rule

In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

(c) Domestic service employment taxes

For purposes of this section, the term “domestic service employment taxes” means—

- (1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and
- (2) any amount withheld from such remuneration pursuant to an agreement under section 3402 (p).

For purposes of this subsection, the term “domestic service in a private home of the employer” includes domestic service described in section 3121 (g)(5).

(d) Exception where employer liable for other employment taxes

To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

(e) General regulatory authority

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

(f) Authority to enter into agreements to collect State unemployment taxes

(1) In general

The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

(2) Transfers to State account

Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

(3) Subtitle F made applicable

For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

(4) State

For purposes of this subsection, the term "State" has the meaning given such term by section 3306(j)(1).

(Added Pub. L. 103-387, § 2(b)(1), Oct. 22, 1994, 108 Stat. 4073.)

Prior Provisions

A prior section 3510, added Pub. L. 98-21, title I, § 123(b)(1), Apr. 20, 1983, 97 Stat. 88, provided a credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984, prior to repeal by Pub. L. 101-508, title XI, § 11801(a)(42), Nov. 5, 1990, 104 Stat. 1388-521.

Effective Date

Section 2(b)(3) of Pub. L. 103-387 provided that: "The amendments made by this subsection [enacting this section] shall apply to remuneration paid in calendar years beginning after December 31, 1994."

Expanded Information to Employers

Section 2(b)(4) of Pub. L. 103-387 provided that: "The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation."