

To: Representative

Washington, DC 20515      Cert. mail #:

Senator

Washington, DC 20510      Cert. mail #:

Senator

Washington, DC 20510      Cert. mail #:

From:

Re: **Petition to Correct my Legal Conclusions about  
Employment Tax Laws, if Erroneous, or to Investigate  
Widespread Misapplication of these Laws by Government**

Dear

In this letter I present my legal conclusions about:

1. which employers and employees are required by law to **pay payroll taxes** (a.k.a. "Social Security" and "Medicare" taxes)
2. which employers are required by law to **pay unemployment taxes**
3. which employers are required by law to **withhold income taxes** from their employees' wages, and
4. which employers are required by law to **report on IRS W-2**

**forms** the amounts of wages paid to their employees and the payroll and income taxes deducted and withheld from their employees' pay.

In each case, understanding which employers and employees **are** subject to the above laws will enable us to understand which employers and employees are **not** subject to those laws.

**I then ask you to correct me if you can show me I am wrong.**

My legal conclusions are based solely on the Internal Revenue Code (IRC) as interpreted by the U.S. Supreme Court. If you find no fault with my legal conclusions about employment tax laws, then please treat this letter as my **petition** for Congress to **investigate** the widespread misapplication of these laws by the Internal Revenue Service (IRS), the Department of Justice (DOJ), and even some federal judges.

## **1. Payroll Tax Laws**

Four distinct payroll taxes are imposed on “wages” by the “*Federal Insurance Contributions Act*” (FICA) in Chapter 21 of the IRC<sup>1</sup>:

- a) IRC § 3101(a) (Attachment A) imposes an “*Old Age, Survivors, and Disability Insurance*” (OASDI, a.k.a. “Social Security”) tax deducted from the wages of employees
- b) IRC § 3101(b) (Attachment A) imposes two grades of “*Hospital Insurance*” (a.k.a. “Medicare”) tax deducted from the wages of employees

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<sup>1</sup> Cited quotes and Attachments in this letter referencing the United States Code, including the Internal Revenue Code (IRC) were taken directly from the official United States Code as published on the website of the Office of the Law Revision Counsel of the U.S. House of Representatives found at [uscode.house.gov](https://www.uscode.house.gov). Only pertinent pages are attached, with quotes highlighted for your convenience.

- c) IRC § 3111(a) (Attachment B) imposes a matching OASDI excise tax paid by employers
- d) IRC § 3111(b) (Attachment B) imposes a matching “*Hospital Insurance*” excise tax paid by employers.

All four of these Chapter 21 FICA or payroll taxes are imposed only on “**wages** (as defined in **section 3121(a)**) ... with respect to **employment** (as defined in **section 3121(b)**).”

The term “wages” is defined in IRC § 3121(a) (Attachment C) as:

*“For purposes of this chapter [IRC Chapter 21, FICA], the term ‘wages’ means all remuneration for **employment** ...”*

Therefore, the key to understand who is required to pay IRC Chapter 21 payroll taxes is the term “**employment** (as defined in **section 3121(b)**)”.

The term “employment” is defined in IRC § 3121(b) (Attachment C) as:

*“For purposes of this chapter [IRC Chapter 21, FICA], the term ‘employment’ means any service, of whatever nature, performed (A) by an employee for the person employing him, irrespective of the citizenship or residence of either,*

*(i) **within the United States**, or*

*(ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into **within the United States** or during the performance of which and while the employee is employed on the vessel or aircraft it touches **at a port in the United States**, if the employee is employed on and in connection with such vessel or aircraft when **outside the United States**, or*

*(B) outside the United States by a **citizen** or **resident** of the United States ..., or*

*(C) if it is service ...which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act<sup>2</sup>*

So, we see from the above that Chapter 21 payroll taxes are imposed on “wages ...with respect to **employment**” which are somehow related to a geographical area called “**the United States**”.

## **2. Unemployment Tax Laws**

Similarly, in IRC § 3301, the Federal Unemployment Tax Act (“FUTA”) (Attachment D), Chapter 23 unemployment taxes are imposed only on “**wages** (as defined in **section 3306(b)**) ... with respect to **employment** (as defined in **section 3306(c)**).”

The term “wages” is defined in IRC § 3306(b) (Attachment E) as:

*“For purposes of this chapter [IRC Chapter 23, FUTA], the term ‘wages’ means all remuneration for **employment** ...”*

Note that the Chapter 23 definition of the term “wages” for unemployment tax purposes is worded exactly the same as the Chapter 21 definition of the term “wages” for payroll tax purposes! So again, the key to understand who is required to pay unemployment taxes on wages is the term “**employment**”, but this time “as defined in **section 3306(c)**”.

The term “**employment**” is defined in IRC § 3306(c) (Attachment E), as:

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<sup>2</sup> Section 233 of the Social Security Act can be found at 42 USC § 433, International agreements, in the United States Code at [uscode.house.gov](https://www.uscode.house.gov). The section 233 agreements referred to in IRC § 3121(b)(C) are social security agreements between the governments of the “United States” (as defined on page 6 of this letter for purposes of Chapter 21) and “the social security system of any foreign country”.

*“For purposes of this chapter [IRC Chapter 23, FUTA], the term ‘employment’ means ...*

*(A) any service, of whatever nature ... irrespective of the citizenship or residence of either,*

*(i) **within the United States**, or*

*(ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into **within the United States** or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in **the United States**, if the employee is employed on and in connection with such vessel or aircraft when outside **the United States**, and*

*(B) any service, of whatever nature, ... outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of **the United States** ...”*

So, we see from the above that both Chapter 21 payroll taxes and Chapter 23 unemployment taxes are imposed on “wages ...with respect to **employment**” which are somehow related to a geographical area called “**the United States**”.

Therefore, knowing the meaning Congress gave to the statutory term “**United States**” for purposes of Chapter 21 taxes is **essential** to understand which employers and employees are required to pay **payroll taxes**, and knowing the meaning Congress gave to the statutory term “**United States**” for purposes of Chapter 23 taxes is **essential** to understand which employers are required to pay **unemployment taxes**.

## **Different Definitions of the Term “*United States*”**

For payroll (FICA) tax purposes, the statutory definition of the term “*United States*” is found at IRC § 3121(e)(2) (Attachment C), which states:

*“For purposes of **this chapter** [Chapter 21, FICA]- ... The term ‘United States’ when used in a geographical sense includes the Commonwealth of **Puerto Rico**, the **Virgin Islands**, **Guam**, and **American Samoa**.”*

So, for Chapter 21 payroll tax purposes the only geographical areas included in the definition of the term “United States” are the **four U.S. island territories** listed above.

For unemployment (FUTA) tax purposes, the statutory definition of the term “*United States*” is found at IRC § 3306(j) (Attachment E). Note that this special definition of the term “*United States*” depends on the special definition of the term “*State*”. The full definition is:

*“For purposes of **this chapter** [Chapter 23, FUTA]-*

*(1) The term ‘State’ includes the **District of Columbia**, the Commonwealth of **Puerto Rico**, and the **Virgin Islands**.”*

*(2) The term ‘United States’ when used in a geographical sense includes the States [defined just above], the **District of Columbia**, the Commonwealth of **Puerto Rico**, and the **Virgin Islands**.*

So, for Chapter 23 unemployment tax purposes the only geographical areas included in the definition of the term “*United States*” are **the District of Columbia (D.C.)** and the **two U.S. island territories** listed above.

Therefore, “*the term ‘employment’ means any service, of whatever*

*nature, performed*” relative to Puerto Rico, the Virgin Islands, Guam, and American Samoa for purposes of IRC Chapter 21 (FICA) and relative to the District of Columbia, Puerto Rico, and the Virgin Islands for purposes of IRC Chapter 23 (FUTA).

To understand how statutory definitions of the term “United States” may sometimes **only** include D.C. and/or federal territories, let us turn to the Supreme Court of the United States for guidance.

### **U.S. Supreme Court on the term “*United States*”**

The U.S. Supreme Court, in Hooven & Allison Co. v. Evatt, 324 U.S. 652, 671-672 (1945) (Attachment F) <sup>3</sup>, listed the following three “*senses*” in which the term “*United States*” may be used:

- **First sense:** As one nation among many in the “*family of (sovereign) nations*” (the United States compared with other nations like France, Egypt, and Japan)
- **Second sense:** As “*territory over which the sovereignty of the United States [federal government] extends*” (such as the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa), or
- **Third sense:** As the “*collective name of the states which are united by and under the Constitution.*” (The sovereign 50 states such as California, Florida, and Texas.)

The senses that come to Americans’ minds when we read the term

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<sup>3</sup> Cited quotes and Attachments in this letter referencing opinions of the Supreme Court of the United States (“U.S. Supreme Court”) were taken directly from the official “United States Reports”. Official United States Reports before 1991 can be found on the Library of Congress website at [loc.gov/collections/united-states-reports](http://loc.gov/collections/united-states-reports), and from 1991 on can be found on the U.S. Supreme Court’s web page at [supremecourt.gov/opinions/USReports.aspx](http://supremecourt.gov/opinions/USReports.aspx). Only pertinent pages are attached, with quotes highlighted for your convenience.

“*United States*” in the laws are the first sense (the whole U.S. nation) and the third sense (the 50 states of the U.S.). Many laws **do** define the term “*United States*” in those senses.

However, we can see from IRC § 3121(e)(2) and IRC § 3306(j) quoted above that Congress, for purposes of Chapter 21 payroll taxes and Chapter 23 unemployment taxes, chose to include **only** employment related to D.C. and other specific **federal territories**, which is the **second sense** in which the term “*United States*” is used per the U.S. Supreme Court in Hooven & Allison Co. v. Evatt.

Now that we are clear about which employers and employees are **included** in the payroll and unemployment tax laws, let us check with the U.S. Supreme Court to see whether this means that the 50 states of the Union are **excluded** from the Chapter 21 and Chapter 23 definitions of the terms “*United States*”.

### **U.S. Supreme Court on statutory definitions**

The U.S. Supreme Court affirmed a well-established rule of law in Stenberg v. Carhart, 530 U.S. 914, 942 (2000) (Attachment G), stating:

*“When a **statute** includes an explicit definition, we must follow **that definition**, even if it varies from that term’s **ordinary meaning**. Meese v. Keene, 481 U. S. 465, 484–485 (1987) (‘It is axiomatic [obvious] that the statutory definition of [a] term **excludes unstated meanings** of that term’)”*

This clearly means that everything is automatically **excluded** unless it is **specifically** included in the statutory definition of the term.

This rule of law especially applies to tax laws. In case you have **any** doubt about this, take note of the U.S. Supreme Court’s **unanimous** ruling



in the tax case of Gould v. Gould, 245 U.S. 151, 153 (1917) (Attachment H), which states that:

*“In the interpretation of statutes [laws] levying [imposing] taxes, it is the established rule **not** to extend their provisions **by implication** beyond the clear import of the language used, or to enlarge their operations so as to embrace [include] matters not **specifically** pointed out. In case of doubt, they are construed **most strongly** against the government [power to tax] and in favor of the citizen [not being taxed].”*

Therefore, there can be no doubt that the “*ordinary meaning*” (the common understanding or dictionary definition) of the term ‘United States’ (the 50 states of the Union) for purposes of payroll and unemployment taxes does **not** legally apply to the IRC Chapter 21 (FICA) and Chapter 23 (FUTA) statutory definitions of the term “*United States*”, which **only** include D.C. and/or other specific U.S. territories.

### **3. Employee Wage Withholding Laws**

The statutory requirement for an employer to deduct and withhold estimated individual income taxes is found in Chapter 24 of the IRC, in Section 3402(a)(1) (Attachment I), which states:

*“... every employer making payment of **wages** shall deduct and withhold upon such **wages** a tax ...”*

The term “**wages**” is defined in IRC § 3401(a) (Attachment J) as:

*“For purposes of this chapter [Chapter 24, Collection of Income Tax at Source on Wages], the term ‘wages’ means all remuneration [pay] ... for services performed by an **employee** for his employer ...”*

So, we see that:

- A. only those employers who make payments of “**wages**” are required by the IRC to withhold income taxes, and
- B. “wages” are only paid to an “**employee**”.

Also, for an employer to calculate the amounts of their employees’ wages to withhold federal income taxes, the law requires an “**employee**” to fill in and give to their employer a signed IRS Form W-4, Employee Withholding Allowance Certificate (Attachment K)<sup>4</sup>. This requirement is found in IRC § 3402(f)(2)(A) (Attachment I), which states:

*“On or before the date of commencement of employment with an employer, the **employee** shall furnish the employer with a signed withholding allowance certificate ...”*

Therefore, knowing how Congress defines the statutory term “**employee**” for purposes of Chapter 24 withholding is **essential** to correctly understand which employers are required to withhold income taxes from their employees’ wages, and which employees are required to sign IRS Form W-4 withholding certificates.

### **IRC Chapter 24 Definition of “**Employee**”**

For income tax withholding purposes, the term “**employee**” is defined in IRC § 3401(c) (Attachment J) as:

*“For purposes of this chapter [Chapter 24, Collection of Income Tax at Source on Wages], the term ‘employee’ includes an **officer, employee, or elected official** of the United States, a State, or any political subdivision thereof, or the District of*

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<sup>4</sup> IRS Form W-4 referred to on this page, and IRS Form W-2 referred to on page 13 were taken directly from the [irs.gov](https://www.irs.gov) website. Only the pertinent form pages are attached.

*Columbia, or any agency or instrumentality of any one or more **of the foregoing**. The term ‘employee’ also includes an **officer of a corporation**.”*

Clearly, for purposes of Chapter 24 withholding, Congress chose to **only** include government officers, employees, and elected officials, and officers of corporations as “*employees*”. Per the U.S. Supreme Court rules of interpretation quoted earlier, this means **all other** employees are **excluded** from all Chapter 24 withholding requirements.

I will now show you that the government employees and corporate officers of the 50 states are **not included** in the legal definition of the statutory term “*employee*”, and that they are therefore **excluded** per the well-established rules affirmed by the U.S. Supreme Court, as quoted on pages 8 & 9 above. I will show you that only federal government employees and officers of **federal** corporations are specified by the withholding laws.

To determine specifically which government agencies must withhold federal income taxes from their employees, we must turn to the definitions of “*United States*”, “*State*”, and “*domestic corporation*” in the IRC. These are found in IRC § 7701(a), Definitions (Attachment L).

*“When used in this title [Title 26, the IRC], where not otherwise distinctly expressed ...*

*(10) The term ‘**State**’ shall be construed [interpreted] to include **the District of Columbia** [D.C.], where such construction [interpretation] is necessary to carry out provisions of this title.*

*(9) The term ‘United States’ when used in a geographical sense includes only the States [defined in subsection (10) as*

D.C.] *and the **District of Columbia***. [D.C. + D.C. = D.C.]

*(4) The term "domestic" when applied to a corporation ... means created or organized in the **United States** [defined in subsection (9) as **D.C.**] or under the law of the United States [federal laws] or of any **State** [defined in subsection (10) as **D.C.**] ..."*

So, for purposes of withholding federal individual income taxes from the "wages" of "employees":

- the term "*State*" only includes D.C.,
- the term "*United States*" only includes "*the States*" (defined to only include D.C.) and D.C., and
- the term "*domestic corporation*" means one created or organized in D.C. or under federal laws.

To interpret the IRC in any other way would be against the well-established rules of legal interpretation affirmed by the U.S. Supreme Court, as quoted on pages 8 and 9 of this petition letter.

Based on the above analysis, per IRC § 3401(c) (Attachment J):

*"For purposes of this chapter [Chapter 24, the income tax withholding laws], the term 'employee' includes an officer, employee, or elected official of the United States [of the federal government], a State [D.C.], or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a [federal or D.C.] corporation."*

The term "*employer*" is defined in IRC § 3401(d) (Attachment J) as:

*“For purposes of this chapter [Chapter 24], the term “employer” means the person for whom an individual performs or performed any service, of whatever nature, as the **employee** of such person ...”*

Therefore, the only “employee” from whose “wages” an “employer” is required to withhold federal income taxes is an officer of the U.S. federal government, a federal employee, a U.S. elected official, or an executive officer of a federal or D.C. corporation.

#### **4. Employer Wage and Tax Reporting Laws**

The IRC requirement for an employer to file an IRS Form W-2 Wage and Tax Statement (Attachment M) every January with the IRS is found in IRC § 6051(a) & (d) “(Attachment N). Those code subsections state:

*“(a) Every person required to deduct and withhold from an employee a tax under **section 3101** or **3402**, ... or every employer engaged in a **trade or business** ... shall furnish to each such employee ... a written statement ...”*

*“(d) A duplicate of any statement made pursuant to this section ... shall ... be filed with the Secretary [the IRS].”*

To understand which employers must report employee wage and tax information, we need to look at: A) Section 3101, B) Section 3402, and C) the definition of the term “trade or business”:

A. **Section 3101**: This section lists four payroll tax laws related to “employment”, which, as shown earlier (on pages 2-9 of this petition letter), is only connected with the Chapter 21 “United States”, a term defined to include only Puerto Rico, the Virgin Islands, Guam, and American Samoa.

B. **Section 3402**: This section is the income tax withholding law, which, as shown earlier (on pages 9-13 of this petition letter), **only** applies to the wages of Chapter 24 “**employees**”, defined as federal government officers, employees, and elected officials and officers of federal corporations.

C. **The term “trade or business”**: Like the terms “*United States*” and “*employee*”, the term “**trade or business**” is a key term with a specific definition in the IRC.

### **IRC Definition of the Term “*trade or business*”**

The term “*trade or business*” is defined in IRC § 7701(a)(26) (Attachment L) as:

“(a) *When used in this title [the IRC], ... (26) the term ‘trade or business’ includes the performance of the functions of a **public office***”, in simple terms, ‘doing official government work’.

Clearly, in the definition of the term “*trade or business*”, Congress chose to **only** include employers who are doing the work of public offices. As we now know from the U.S. Supreme Court decisions on pages 8-9 of this letter, employees of other trades or businesses are necessarily **excluded** from this special definition.

As with government agencies and corporations, a “*public office*” is not just any ‘public office’, but only a **federal** “*public office*”. This is made clear by 4 USC § 72, “**Public offices; at seat of Government**” (Attachment O), which states:

“*All offices attached to the **seat of government** [all **public offices**] shall be exercised in the District of Columbia, and **not elsewhere** [not in the 50 states],*

*except as otherwise expressly provided by law [for military bases, et cetera].”*

This complies with the U.S. Constitution, which states in Article 1, Section 8, clause 17 (Attachment P):

*“The Congress shall have Power ...To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may ...become the **Seat of the Government** of the United States ...”*<sup>5</sup>

In other words, the phrase “*trade or business*” when used in IRC § 6051(a) really means work done on behalf of the **federal** government.

In summary, the only employers required by IRC § 6051(a) to report wage, payroll tax, and withholding information on IRS W-2 forms are:

- employers with employment related to specific U.S. territories, and/or
- the federal (D.C.) government and/or
- federal corporations.

## **My Legal Conclusions**

Given all the above:

1. The **only** employers and employees required to **pay payroll taxes** are those in which the employment is related to:
  - a. Puerto Rico, the Virgin Islands, Guam, or American Samoa, or
  - b. An agreement under section 233 of the Social Security Act.

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<sup>5</sup> The cited quote and attachment were taken directly from the transcription of the Constitution of the United States (U.S. Constitution) published by the federal government’s U.S. National Archives and Records Administration on their web page [archives.gov/founding-docs/constitution-transcript](https://www.archives.gov/founding-docs/constitution-transcript).



2. The **only** employers required to **pay unemployment taxes** are those in which the employment is related to the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.
3. The **only** employers required to **withhold federal income taxes** from the wages of their officers, employees, and elected officials, are:
  - a. federal and D.C. government offices, agencies, and instrumentalities, and
  - b. federal and D.C. corporations, but **only** from their officers.
4. The **only** employers required to **report** to the IRS wages, federal income taxes withheld, and FICA taxes **on W-2 forms** are those employers referred to in Legal Conclusions #1 and #3 stated above and any other employers doing official federal government work.

According to the U.S. Supreme Court's affirmations of well-established rules of law applying especially to tax laws, **all non-federal** employees and employers **in the 50 states** (or for that matter, anywhere else in the world) are therefore **excluded** from all the above quoted employment tax laws.

### **My Declaration**

I hereby declare that I am not a citizen or resident of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, or American Samoa. Nor do I have employment connected with D.C. or those U.S. island territories, nor am I involved with any employment under an agreement with section 233 of the Social Security Act.

Therefore, wages I may pay as an employer or may be paid as an employee are not subject to payroll taxes (a.k.a. "Social Security" and "Medicare" taxes) and wages I may pay as an employer are not subject to



unemployment taxes.

I also declare that I am not an officer, employee, or elected official of a federal or D.C. government office, agency, or instrumentality, nor am I an officer of a federal or D.C. corporation. Therefore, any wages I might pay as an employer or might be paid as an employee are not subject to income tax withholding.

Moreover, I am also not required to sign and provide W-4 forms to any employers I may have, nor to require W-4 forms from any employees I may have.

Finally, given the above declarations and the fact that I am not involved in doing any federal government work, I am not required to report to the IRS on W-2 forms any wages I might pay to employees as an employer. Also, any employers that I may have are not required or authorized by law to report my wages to the IRS on W-2 forms.

## **Petition Summary**

Thank you for the service you are providing for our country as a member of Congress. **I am asking you**, as my representative in Congress, to please **correct me if** you find my legal conclusions to be in error, so that I can properly comply with federal employment tax laws and pay my **fair share** of federal employment taxes.

However, if instead you see that my legal conclusions are based solely on the stated meaning of federal laws as understood by the U.S. Supreme Court, and are therefore correct, I ask that you and your fellow members of Congress **put a stop** to the widespread **misapplication** of these employment tax laws by the Internal Revenue Service, the Department of Justice, and even certain federal judges.

In either case, I kindly ask that you respond to my petition with a specific, on point reply within 60 days of receipt.

Sincerely,

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### **List of Attached Documents**

- A. IRC § 3101(a) & (b), Federal Insurance Contributions Act (“FICA”) Tax on Employees
- B. IRC § 3111(a) & (b), FICA Tax on Employers
- C. IRC § 3121(a), (b), & (e)(2), FICA definition of terms “*wages*”, “*employment*”, and “*United States*”
- D. IRC § 3301, Federal Unemployment Tax Act (“FUTA”)
- E. IRC § 3306(b), (c) & (j), FUTA definition of terms “*wages*”, “*employment*”, and “*United States*”
- F. Hooven & Allison Co. v. Evatt, 324 U.S. 652, 671-672 (1945)
- G. Stenberg v. Carhart, 530 U.S. 914, 942 (2000)
- H. Gould v. Gould, 245 U.S. 151, 153 (1917)
- I. IRC § 3402(a)(1) & (f)(2)(A), Income tax collected at source
- J. IRC § 3401(a), (c), & (d), Chapter 24 definition of terms “*wages*”, “*employee*”, and “*employer*”
- K. IRS Form W-4, Employee’s Withholding Allowance Certificate
- L. IRC § 7701(a)(4), (9), (10), & (26), IRC definition of terms “*United States*”, “*State*”, “*domestic*”, and “*trade or business*”
- M. IRS Form W-2, Wage and Tax Statement
- N. IRC § 6051(a) & (d), Receipts for Employees
- O. 4 USC § 72, Public offices; at seat of Government
- P. U.S. Constitution, Article 1, Section 8, clause 17

**26 USC 3101: Rate of tax**

Text contains those laws in effect on September 21, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

CHAPTER 21-FEDERAL INSURANCE CONTRIBUTIONS ACT

Subchapter A-Tax on Employees

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**§3101. Rate of tax****(a) Old-age, survivors, and disability insurance**

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to 6.2 percent of the wages (as defined in section 3121(a)) received by the individual with respect to employment (as defined in section 3121(b)).

**(b) Hospital insurance****(1) In general**

In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to 1.45 percent of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b)).

**(2) Additional tax**

In addition to the tax imposed by paragraph (1) and the preceding subsection, there is hereby imposed on every taxpayer (other than a corporation, estate, or trust) a tax equal to 0.9 percent of wages which are received with respect to employment (as defined in section 3121(b)) during any taxable year beginning after December 31, 2012, and which are in excess of-

(A) in the case of a joint return, \$250,000,

(B) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under subparagraph (A), and

(C) in any other case, \$200,000.

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

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

(Aug. 16, 1954, ch. 736, 68A Stat. 415 ; Sept. 1, 1954, ch. 1206, title II, §208(b), 68 Stat. 1094 ; Aug. 1, 1956, ch. 836, title II, §202(b), 70 Stat. 845 ; Pub. L. 85-840, title IV, §401(b), Aug. 28, 1958, 72 Stat. 1041 ; Pub. L. 87-64, title II, §201(b), June 30, 1961, 75 Stat. 141 ; Pub. L. 89-97, title I, §111(c)(5), title III, §321(b), July 30, 1965, 79 Stat. 342 , 395 ; Pub. L. 90-248, title I, §109(a)(2), (b)(2), Jan. 2, 1968, 81 Stat. 836 ; Pub. L. 92-5, title II, §204(a)(1), Mar. 17, 1971, 85 Stat. 11 ; Pub. L. 92-336, §204(a)(2), (b)(2), July 1, 1972, 86 Stat. 421 , 422 ; Pub. L. 92-603, §135(a)(2), (b)(2), Oct. 30, 1972, 86 Stat. 1362 , 1363 ; Pub. L. 93-233, §6(a)(1), (b)(2), Dec. 31, 1973, 87 Stat. 954 , 955 ; Pub. L. 94-455, title XIX, §1903(a)(1), Oct. 4, 1976, 90 Stat. 1806 ; Pub. L. 95-216, title I, §101(a)(1), (b)(1), title III, §317(b)(2), Dec. 20, 1977, 91 Stat. 1510 , 1511, 1540 ; Pub. L. 98-21, title I, §123(a)(1), Apr. 20, 1983, 97 Stat. 87 ; Pub. L. 108-203, title IV, §415, Mar. 2, 2004, 118 Stat. 530 ; Pub. L. 111-148, title IX, §9015(a)(1), title X, §10906(a), Mar. 23, 2010, 124 Stat. 870 , 1020 ; Pub. L. 111-152, title I, §1402(b)(1)(A), Mar. 30, 2010, 124 Stat. 1063 ; Pub. L. 113-295, div. A, title II, §221(a)(99)(A), Dec. 19, 2014, 128 Stat. 4051 ; Pub. L. 115-141, div. U, title IV, §401(a)(207), Mar. 23, 2018, 132 Stat. 1194 .)

**REFERENCES IN TEXT**

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

**AMENDMENTS**

2018-Subsec. (a). Pub. L. 115-141 inserted period at end.

**26 USC 3111: Rate of tax**

Text contains those laws in effect on September 20, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

CHAPTER 21-FEDERAL INSURANCE CONTRIBUTIONS ACT

Subchapter B-Tax on Employers

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**§3111. Rate of tax****(a) Old-age, survivors, and disability insurance**

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 6.2 percent of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

**(b) Hospital insurance**

In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 1.45 percent of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

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

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

**[(d) Repealed. Pub. L. 115–141, div. U, title IV, §401(b)(34), Mar. 23, 2018, 132 Stat. 1204 ]**

**(e) Credit for employment of qualified veterans****(1) In general**

If a qualified tax-exempt organization hires a qualified veteran with respect to whom a credit would be allowable under section 38 by reason of section 51 if the organization were not a qualified tax-exempt organization, then there shall be allowed as a credit against the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during the applicable period an amount equal to the credit determined under section 51 (after application of the modifications under paragraph (3)) with respect to wages paid to such qualified veteran during such period.

**(2) Overall limitation**

The aggregate amount allowed as a credit under this subsection for all qualified veterans for any period with respect to which tax is imposed under subsection (a) shall not exceed the amount of the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during such period.

**(3) Modifications**

For purposes of paragraph (1), section 51 shall be applied-

(A) by substituting "26 percent" for "40 percent" in subsection (a) thereof,

(B) by substituting "16.25 percent" for "25 percent" in subsection (i)(3)(A) thereof, and

(C) by only taking into account wages paid to a qualified veteran for services in furtherance of the activities related to the purpose or function constituting the basis of the organization's exemption under section 501.

**(4) Applicable period**

The term "applicable period" means, with respect to any qualified veteran, the 1-year period beginning with the day such qualified veteran begins work for the organization.

**(5) Definitions**

For purposes of this subsection-

(A) the term "qualified tax-exempt organization" means an employer that is an organization described in section 501(c) and exempt from taxation under section 501(a), and

**26 USC 3121: Definitions**

Text contains those laws in effect on September 17, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

**CHAPTER 21-FEDERAL INSURANCE CONTRIBUTIONS ACT**

Subchapter C-General Provisions

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**§3121. Definitions****(a) Wages**

For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include-

(1) in the case of the taxes imposed by sections 3101(a) and 3111(a) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of-

(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term "wages" only payments which are received under a workman's compensation law), or

(B) medical or hospitalization expenses in connection with sickness or accident disability, or

(C) death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee;

[ (3) Repealed. Pub. L. 98-21, title III, §324(a)(3)(B), Apr. 20, 1983, 97 Stat. 123 ]

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary-

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust,

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a),

(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6),



entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made;

(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100;

[(17) Repealed. Pub. L. 113–295, div. A, title II, §221(a)(19)(B)(iv), Dec. 19, 2014, 128 Stat. 4040 ]

(18) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, 129, 134(b)(4), or 134(b)(5);

(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119;

(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 108(f)(4), 117, or 132;

(21) in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights);

(22) remuneration on account of-

(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

(B) any disposition by the individual of such stock; or

(23) any benefit or payment which is excludable from the gross income of the employee under section 139B(a).

Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter. Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages.

## **(b) Employment**

For purposes of this chapter, the term "employment" means any service, of whatever nature, performed (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen or resident of the United States as an employee for an American employer (as defined in subsection (h)), or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act; except that such term shall not include-

(1) service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) service performed by a child under the age of 18 in the employ of his father or mother;

(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if-

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed; or

(4) any individual who performs services that are included under an agreement entered into pursuant to section 218 or 218A of the Social Security Act.

#### **(e) State, United States, and citizen**

For purposes of this chapter-

##### **(1) State**

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

##### **(2) United States**

The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

#### **(f) American vessel and aircraft**

For purposes of this chapter, the term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term "American aircraft" means an aircraft registered under the laws of the United States.

#### **(g) Agricultural labor**

For purposes of this chapter, the term "agricultural labor" includes all service performed-

(1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar year in which such service is performed;

(C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if such service is not in the course of the employer's trade or business.

**26 USC 3301: Rate of tax**

Text contains those laws in effect on September 10, 2022

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

**CHAPTER 23-FEDERAL UNEMPLOYMENT TAX ACT****Jump To:**

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**§3301. Rate of tax**

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to 6 percent of the total wages (as defined in section 3306(b)) paid by such employer during the calendar year with respect to employment (as defined in section 3306(c)).

(Aug. 16, 1954, ch. 736, 68A Stat. 439 ; Pub. L. 86-778, title V, §523(a), Sept. 13, 1960, 74 Stat. 980 ; Pub. L. 87-6, §14(a), Mar. 24, 1961, 75 Stat. 16 ; Pub. L. 88-31, §2(a), May 29, 1963, 77 Stat. 51 ; Pub. L. 91-373, title III, §301(a), Aug. 10, 1970, 84 Stat. 713 ; Pub. L. 92-329, §2(a), June 30, 1972, 86 Stat. 398 ; Pub. L. 94-455, title XIX, §1903(a) (11), Oct. 4, 1976, 90 Stat. 1808 ; Pub. L. 94-566, title II, §211(b), Oct. 20, 1976, 90 Stat. 2676 ; Pub. L. 97-248, title II, §271(b)(1), (c)(1), Sept. 3, 1982, 96 Stat. 554 , 555 ; Pub. L. 99-514, title XVIII, §1899A(42), Oct. 22, 1986, 100 Stat. 2960 ; Pub. L. 100-203, title IX, §9153(a), Dec. 22, 1987, 101 Stat. 1330-326 ; Pub. L. 101-508, title XI, §11333(a), Nov. 5, 1990, 104 Stat. 1388-470 ; Pub. L. 102-164, title IV, §402, Nov. 15, 1991, 105 Stat. 1061 ; Pub. L. 103-66, title XIII, §13751, Aug. 10, 1993, 107 Stat. 664 ; Pub. L. 105-34, title X, §1035, Aug. 5, 1997, 111 Stat. 937 ; Pub. L. 110-140, title XV, §1501(a), Dec. 19, 2007, 121 Stat. 1800 ; Pub. L. 110-343, div. B, title IV, §404(a), Oct. 3, 2008, 122 Stat. 3860 ; Pub. L. 111-92, §10(a), Nov. 6, 2009, 123 Stat. 2988 ; Pub. L. 115-141, div. U, title IV, §401(b)(37), Mar. 23, 2018, 132 Stat. 1204 .)

**E. .TORIAL NOTES****AMENDMENTS**

**2018**-Pub. L. 115-141 substituted "equal to 6 percent of the total wages (as defined in section 3306(b)) paid by such employer during the calendar year with respect to employment (as defined in section 3306(c))." for "equal to-

"(1) 6.2 percent in the case of calendar years 1988 through 2010 and the first 6 months of calendar year 2011; or

"(2) 6.0 percent in the case of the remainder of calendar year 2011 and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year (or portion of the calendar year) with respect to employment (as defined in section 3306(c))."

**2009**-Pub. L. 111-92 inserted "(or portion of the calendar year)" after "during the calendar year" in concluding provisions and substituted "through 2010 and the first 6 months of calendar year 2011" for "through 2009" in par. (1) and "the remainder of calendar year 2011" for "calendar year 2010" in par. (2).

**2008**-Par. (1). Pub. L. 110-343, §404(a)(1), substituted "through 2009" for "through 2008".

Par. (2). Pub. L. 110-343, §404(a)(2), substituted "calendar year 2010" for "calendar year 2009".

**2007**-Par. (1). Pub. L. 110-140, §1501(a)(1), substituted "2008" for "2007".

Par. (2). Pub. L. 110-140, §1501(a)(2), substituted "2009" for "2008".

**1997**-Par. (1). Pub. L. 105-34, §1035(1), substituted "2007" for "1998".

Par. (2). Pub. L. 105-34, §1035(2), substituted "2008" for "1999".

**1993**-Par. (1). Pub. L. 103-66, §13751(1), substituted "1998" for "1996".

Par. (2). Pub. L. 103-66, §13751(2), substituted "1999" for "1997".

**1991**-Par. (1). Pub. L. 102-164, §402(1), substituted "1996" for "1995".

Par. (2). Pub. L. 102-164, §402(2), substituted "1997" for "1996".

**1990**-Par. (1). Pub. L. 101-508, §11333(a)(1), substituted "1988 through 1995" for "1988, 1989, and 1990".

Par. (2). Pub. L. 101-508, §11333(a)(2), substituted "1996" for "1991".



**26 USC 3306: Definitions**

Text contains those laws in effect on September 10, 2022

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

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**§3306. Definitions****(a) Employer**

For purposes of this chapter-

**(1) In general**

The term "employer" means, with respect to any calendar year, any person who-

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

**(2) Agricultural labor**

In the case of agricultural labor, the term "employer" means, with respect to any calendar year, any person who-

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$20,000 or more for agricultural labor, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

**(3) Domestic service**

In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term "employer" means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$1,000 or more for such service.

**(4) Special rule**

A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.

**(b) Wages**

For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include-

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to \$7,000 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to \$7,000 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(15) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(16) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 108(f)(4), 117, or 132;

(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b);

(18) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(d);

(19) remuneration on account of-

(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

(B) any disposition by the individual of such stock; or

(20) any benefit or payment which is excludable from the gross income of the employee under section 139B(b).

Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages. Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter.

### **(c) Employment**

For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except-

(1) agricultural labor (as defined in subsection (k)) unless-

(A) such labor is performed for a person who-

(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)), or

(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

(B) such labor is not agricultural labor performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;

(3) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if-

(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or

(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter;

(4) service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States;

(5) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

**(i) Employee**

For purposes of this chapter, the term "employee" has the meaning assigned to such term by section 3121(d), except that paragraph (4) and subparagraphs (B) and (C) of paragraph (3) shall not apply.

**(j) State, United States, and American employer**

For purposes of this chapter-

**(1) State**

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

**(2) United States**

The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

**(3) American employer**

The term "American employer" means a person who is-

- (A) an individual who is a resident of the United States,
- (B) a partnership, if two-thirds or more of the partners are residents of the United States,
- (C) a trust, if all of the trustees are residents of the United States, or
- (D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

**(k) Agricultural labor**

For purposes of this chapter, the term "agricultural labor" has the meaning assigned to such term by subsection (g) of section 3121, except that for purposes of this chapter subparagraph (B) of paragraph (4) of such subsection (g) shall be treated as reading:

"(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (A), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;"

**[ (l) Repealed. Sept. 1, 1954, ch. 1212, §4(c), 68 Stat. 1135 ]****(m) American vessel and aircraft**

For purposes of this chapter, the term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term "American aircraft" means an aircraft registered under the laws of the United States.

**(n) Vessels operated by general agents of United States**

Notwithstanding the provisions of subsection (c)(6), service performed by officers and members of the crew of a vessel which would otherwise be included as employment under subsection (c) shall not be excluded by reason of the fact that it is performed on or in connection with an American vessel-

- (1) owned by or bareboat chartered to the United States and
- (2) whose business is conducted by a general agent of the Secretary of Transportation.

For purposes of this chapter, each such general agent shall be considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account, and the officers and members of the crew of such an American vessel whose business is conducted by a general agent of the Secretary of Transportation shall be deemed to be performing services for such general agent rather than the United States. Each such general agent who in his capacity as such is an employer within the meaning of subsection (a) shall be subject to all the requirements imposed upon an employer under this chapter with respect to service which constitutes employment by reason of this subsection.

**(o) Special rule in case of certain agricultural workers****(1) Crew leaders who are registered or provide specialized agricultural labor**

For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader-

- (A) if-
  - (i) such crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act; or
  - (ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(B) if such individual is not an employee of such other person within the meaning of subsection (i).



**652****OCTOBER TERM, 1944.****Syllabus.****324 U. S.****HOOVEN & ALLISON CO. v. EVATT, TAX COMMISSIONER OF OHIO.****CERTIORARI TO THE SUPREME COURT OF OHIO.****No 38. Argued November 7, 8, 1944.—Decided April 9, 1945.**

1. Where, upon review here of state court decisions, the existence of an asserted federal right or immunity depends upon the appraisal of undisputed facts of record, or where reference to the facts is necessary to the determination of the precise meaning of the federal right or immunity, as applied, this Court is free to reexamine the facts as well as the law in order to determine for itself whether the asserted right or immunity is to be sustained. P. 659.
2. Since it appears on consideration of petitioner's course of business and of the circumstances attending the importation that petitioner was the inducing and efficient cause of bringing the fibers into the country, which is importation, petitioner, not the foreign sellers or the agents, was the importer of fibers brought from the Philippine Islands and other places outside the United States, and the constitutional immunity from state taxation of the imported fibers survived their delivery to petitioner. Pp. 659, 664.
3. For the purpose of determining whether petitioner was the importer in the constitutional sense, it is immaterial whether title to the merchandise vested in the petitioner at the time of shipment or only after its arrival in this country. P. 662.
4. When merchandise is brought here from another country, the extent of its immunity from state taxation turns on the essential nature of the transaction, considered in the light of the constitutional purpose, and not on the formalities with which the importation is conducted or on the technical procedures by which it is effected. P. 663.
5. The purpose of the constitutional prohibition of state taxes on imports is to protect the exclusive power of the national government to tax imports and to prevent what in matter of substance would amount to the imposition of additional import duties by States in which the property might be found or stored before its sale or use. P. 664.
6. The constitutional immunity of the imports from state taxation was not lost by their storage (in the original packages) in ware-



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power of the national government to lay and collect customs duties upon such merchandise, is precisely the same as in the case of that of foreign origin. Hence it is plain that such importations, although not of foreign origin, are within the design and purpose of the constitutional prohibition against the local taxation of imports.

We find it impossible to say that merely because merchandise, brought into the country from a place without, does not come from a foreign country, it is not an import envisaged by the words and purpose of the constitutional prohibition. The interpretation in *Brown v. Maryland*, *supra*, the occasional judicial decisions that foreign origin is not a necessary characteristic of imports so long as they are brought into the country from a place without it, and the purpose of the constitutional prohibition, are alike persuasive that there may be imports in the constitutional sense which do not have a foreign origin.

The fact that the merchandise here in question did not come from a foreign country, if the contention be accepted that the Philippines are not to be regarded as such, is therefore without significance. It is material only whether it came from a place *without* the "country." Hence, in determining what are imports for constitutional purposes, we must ascertain the territorial limits of the "country" into which they are brought. Obviously, if the Philippines are to be regarded as a part of the United States in this sense, merchandise brought from the Philippines to the United States would not be brought into the United States from a place without, and would not be imports, more than articles transported from one state to another.

The term "United States" may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States ex-



tends, or it may be the collective name of the states which are united by and under the Constitution.<sup>6</sup>

When *Brown v. Maryland*, *supra*, was decided, the United States was without dependencies or territories outside its then territorial boundaries on the North American continent, and the Court had before it only the question whether foreign articles brought into the State of Maryland could be subjected to state taxation. It seems plain that Chief Justice Marshall, in his reference to imports as articles brought into the country, could have had reference only to articles brought into a state which is one of the states united by and under the Constitution, and in which alone the constitutional prohibition here involved is applicable.

The relation of the Philippines to the United States, taken as the collective name of the states which are united by and under the Constitution, is in many respects different from the status of those areas which, when the Constitution was adopted, were brought under the control of Congress and which were ultimately organized into states of the United States. See *Balzac v. Porto Rico*, 258 U. S. 298, 304–305, and cases cited. Hence we do not stop to inquire whether articles brought into such territories or brought from such territories into a state, could have been regarded as imports, constitutionally immune from state taxation. We confine the present discussion to the question whether such articles, brought from the Philippines and introduced into the United States, are imports so immune.

We have adverted to the fact that the reasons for protecting from interference, by state taxation, the consti-

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<sup>6</sup> See Langdell, "The Status of our New Territories," 12 Harv. L. Rev. 365, 371; see also Thayer, "Our New Possessions," 12 Harv. L. Rev. 464; Thayer, "The Insular Tariff Cases in the Supreme Court," 15 Harv. L. Rev. 164; Littlefield, "The Insular Cases," 15 Harv. L. Rev. 169, 281.



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Syllabus

**STENBERG, ATTORNEY GENERAL OF NEBRASKA,  
ET AL. v. CARHART****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE EIGHTH CIRCUIT**

No. 99–830. Argued April 25, 2000—Decided June 28, 2000

The Constitution offers basic protection to a woman's right to choose whether to have an abortion. *Roe v. Wade*, 410 U.S. 113; *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833. Before fetal viability, a woman has a right to terminate her pregnancy, *id.*, at 870 (plurality opinion), and a state law is unconstitutional if it imposes on the woman's decision an "undue burden," *i. e.*, if it has the purpose or effect of placing a substantial obstacle in the woman's path, *id.*, at 877. Postviability, the State, in promoting its interest in the potentiality of human life, may regulate, and even proscribe, abortion except where "necessary, in appropriate medical judgment, for the preservation of the [mother's] life or health." *E. g.*, *id.*, at 879. The Nebraska law at issue prohibits any "partial birth abortion" unless that procedure is necessary to save the mother's life. It defines "partial birth abortion" as a procedure in which the doctor "partially delivers vaginally a living unborn child before killing the . . . child," and defines the latter phrase to mean "intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the [abortionist] knows will kill the . . . child and does kill the . . . child." Violation of the law is a felony, and it provides for the automatic revocation of a convicted doctor's state license to practice medicine. Respondent Carhart, a Nebraska physician who performs abortions in a clinical setting, brought this suit seeking a declaration that the statute violates the Federal Constitution. The District Court held the statute unconstitutional. The Eighth Circuit affirmed.

*Held:* Nebraska's statute criminalizing the performance of "partial birth abortion[s]" violates the Federal Constitution, as interpreted in *Casey* and *Roe*. Pp. 922–946.

(a) Because the statute seeks to ban one abortion method, the Court discusses several different abortion procedures, as described in the evidence below and the medical literature. During a pregnancy's second trimester (12 to 24 weeks), the most common abortion procedure is "dilation and evacuation" (D&E), which involves dilation of the cervix, removal of at least some fetal tissue using nonvacuum surgical instruments, and (after the 15th week) the potential need for instrumental



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F. Supp. 2d, at 471; *A Choice for Women*, 54 F. Supp. 2d, at 1155; *Causeway Medical Suite*, 43 F. Supp. 2d, at 614–615; *Planned Parenthood of Central N. J. v. Verniero*, 41 F. Supp. 2d 478, 503–504 (NJ 1998); *Eubanks v. Stengel*, 28 F. Supp. 2d 1024, 1034–1035 (WD Ky. 1998); *Planned Parenthood of Southern Ariz., Inc. v. Woods*, 982 F. Supp. 2d 1369, 1378 (Ariz. 1997); *Kelley*, 977 F. Supp. 2d, at 1317; but cf. *Richmond Medical Center v. Gilmore*, 144 F. 3d 326, 330–332 (CA4 1998) (Luttig, J., granting stay).

Regardless, even were we to grant the Attorney General's views "substantial weight," we still have to reject his interpretation, for it conflicts with the statutory language discussed *supra*, at 940. The Attorney General, echoed by the dissents, tries to overcome that language by relying on other language in the statute; in particular, the words "partial birth abortion," a term ordinarily associated with the D&X procedure, and the words "partially delivers vaginally a living unborn child." Neb. Rev. Stat. Ann. §28–326(9) (Supp. 1999). But these words cannot help the Attorney General. They are subject to the statute's further *explicit statutory definition*, specifying that both terms include "delivering into the vagina a living unborn child, or a substantial portion thereof." *Ibid.* When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning. *Meese v. Keene*, 481 U.S. 465, 484–485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); *Colautti v. Franklin*, 439 U.S., at 392–393, n. 10 ("As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 502 (1945); *Fox v. Standard Oil Co. of N. J.*, 294 U.S. 87, 95–96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," *post*, at 998



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as was assumed by the Missouri court. Deaths were occurring between the time of the levy and the time when so much of it as might be paid would be paid in. The assessment was for the purpose of keeping up a fund of \$300,000 to meet deaths promptly, as they occurred. Without giving the figures in detail it is enough to say that it clearly appears that the amount of the assessment, \$322,378.48, was not in excess of what the subsequently rendered Connecticut judgment allowed. It necessarily was levied as an estimate. There was no probability that it would lead to even a temporary excess over \$300,000, to be applied to the next assessment laid. We are of opinion that full faith and credit was not given to the Connecticut record and that for that reason the present judgments must be reversed.

*Judgments reversed.*

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ERROR TO THE SUPREME COURT OF THE STATE OF NEW YORK.

No. 41. Submitted November 8, 1917.—Decided November 19, 1917.

Alimony paid monthly to a divorced wife under a decree of court is not taxable as "income" under the Income Tax Act of October 3, 1913, 38 Stat. 114, 166.

In the interpretation of taxing statutes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. Doubts are resolved against the Government.

168 App. Div. 900, affirmed.

THE case is stated in the opinion.

*Mr. Martin W. Littleton and Mr. Owen N. Brown* for plaintiff in error.

*Mr. John L. McNab* for defendant in error.

MR. JUSTICE McREYNOLDS delivered the opinion of the court.

A decree of the Supreme Court for New York County entered in 1909 forever separated the parties to this proceeding, then and now citizens of the United States, from bed and board; and further ordered that plaintiff in error pay to Katherine C. Gould during her life the sum of three thousand dollars (\$3,000.00) every month for her support and maintenance. The question presented is whether such monthly payments during the years 1913 and 1914 constituted parts of Mrs. Gould's income within the intentment of the Act of Congress approved October 3, 1913, 38 Stat. 114, 166, and were subject as such to the tax prescribed therein. The court below answered in the negative; and we think it reached the proper conclusion.

Pertinent portions of the act follow:

"SECTION II. A. Subdivision 1. That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; / . . .

"B. That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce,



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or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent: . . . .”

In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen. *United States v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U. S. 468, 474; *Benziger v. United States*, 192 U. S. 38, 55.

As appears from the above quotations, the net income upon which subdivision 1 directs that an annual tax shall be assessed, levied, collected and paid is defined in division B. The use of the word itself in the definition of “income” causes some obscurity, but we are unable to assert that alimony paid to a divorced wife under a decree of court falls fairly within any of the terms employed.

In *Audubon v. Shufeldt*, 181 U. S. 575, 577, 578, we said: “Alimony does not arise from any business transaction, but from the relation of marriage. It is not founded on contract, express or implied, but on the natural and legal duty of the husband to support the wife. The general obligation to support is made specific by the decree of the court of appropriate jurisdiction. . . . Permanent alimony is regarded rather as a portion of the husband’s estate to which the wife is equitably entitled, than as strictly a debt; alimony from time to time may be regarded as a portion of his current income or earnings; . . . .”

The net income of the divorced husband subject to taxation was not decreased by payment of alimony under the court's order; and, on the other hand, the sum received by the wife on account thereof cannot be regarded as income arising or accruing to her within the enactment.

The judgment of the court below is

*Affirmed.*

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WEAR, IMPLEADED SUB. NOM. WEAR SAND  
COMPANY, ET AL. *v.* STATE OF KANSAS EX REL.  
BREWSTER, ATTORNEY GENERAL.

ERROR TO THE SUPREME COURT OF THE STATE OF KANSAS.

No. 30. Argued November 12, 1917.—Decided November 26, 1917.

A specific intent to accept the tidal test of navigability, and so to extend riparian ownership *ad filum aquæ* on non-tidal streams which are navigable in fact, is not predicable of a statute adopting the common law of England in general terms only, particularly if enacted later than the decision in *The Genessee Chief*, 12 How. 443. Hence such a statute, passed by Kansas Territory in 1859 and retained by the State, affords no basis even in purport for denying the power of the Supreme Court of Kansas to apply the test of navigability in fact, as part of the common law, in determining the ownership of a river bed as between the State and riparian owners deriving title under a federal patent issued, before statehood, in 1860.

In a mandamus proceeding to test the right of a State to levy charges on sand dredged from a stream by a riparian owner under claim of title *ad filum aquæ*, the latter has not a constitutional right to have the question of navigability determined by a jury.

Whether in such a case the state court may take judicial notice that the stream is navigable is a question of local law. So held where judicial notice was taken of the navigability of the Kaw River, the principal river of Kansas, at the state capital, and the decision was supported by the meandering of the stream in original public surveys, and by various state and federal statutes and decisions cited.

**26 USC 3402: Income tax collected at source**

Text contains those laws in effect on April 27, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

**CHAPTER 24-COLLECTION OF INCOME TAX AT SOURCE ON WAGES****Jump To:**

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**§3402. Income tax collected at source****(a) Requirement of withholding****(1) In general**

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall-

(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.

**(2) Amount of wages**

For purposes of applying tables or procedures prescribed under paragraph (1), the term "the amount of wages" means the amount by which the wages exceed the taxpayer's withholding allowance, prorated to the payroll period.

**(b) Percentage method of withholding**

(1) If wages are paid with respect to a period which is not a payroll period, the withholding allowance allowable with respect to each payment of such wages shall be the allowance allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(2) In any case in which wages are paid by an employer without regard to any payroll period or other period, the withholding allowance allowable with respect to each payment of such wages shall be the allowance allowed for a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(3) In any case in which the period, or the time described in paragraph (2), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to compute the tax to be deducted and withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period.

(4) In determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

**(c) Wage bracket withholding**

(1) At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee a tax (in lieu of the tax required to be deducted and withheld under subsection (a)) determined in accordance with tables prescribed by the Secretary in accordance with paragraph (6).

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.



(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(5) If the wages exceed the highest wage bracket, in determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

(6) In the case of wages paid after December 31, 1969, the amount deducted and withheld under paragraph (1) shall be determined in accordance with tables prescribed by the Secretary. In the tables so prescribed, the amounts set forth as amounts of wages and amounts of income tax to be deducted and withheld shall be computed on the basis of the table for an annual payroll period prescribed pursuant to subsection (a).

#### **(d) Tax paid by recipient**

If the employer, in violation of the provisions of this chapter, fails to deduct and withhold the tax under this chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

#### **(e) Included and excluded wages**

If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

#### **(f) Withholding allowance**

##### **(1) In general**

Under rules determined by the Secretary, an employee receiving wages shall on any day be entitled to a withholding allowance determined based on-

(A) whether the employee is an individual for whom a deduction is allowable with respect to another taxpayer under section 151;

(B) if the employee is married, whether the employee's spouse is entitled to an allowance, or would be so entitled if such spouse were an employee receiving wages, under subparagraph (A) or (D), but only if such spouse does not have in effect a withholding allowance certificate claiming such allowance;

(C) the number of individuals with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable a credit under section 24(a) for the taxable year under subtitle A in respect of which amounts deducted and withheld under this chapter in the calendar year in which such day falls are allowed as a credit;

(D) any additional amounts to which the employee elects to take into account under subsection (m), but only if the employee's spouse does not have in effect a withholding allowance certificate making such an election;

(E) the standard deduction allowable to such employee (one-half of such standard deduction in the case of an employee who is married (as determined under section 7703) and whose spouse is an employee receiving wages subject to withholding); and

(F) whether the employee has withholding allowance certificates in effect with respect to more than 1 employer.

##### **(2) Allowance certificates**

##### **(A) On commencement of employment**

On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding allowance certificate relating to the withholding allowance claimed by the employee, which shall in no event exceed the amount to which the employee is entitled.

##### **(B) Change of status**

If, on any day during the calendar year, an employee's withholding allowance is in excess of the withholding allowance to which the employee would be entitled had the employee submitted a true and accurate withholding allowance certificate to the employer on that day, the employee shall within 10 days thereafter furnish the employer with a new withholding allowance certificate. If, on any day during the calendar year, an employee's withholding allowance is greater than the withholding allowance claimed, the employee may furnish the employer with a new withholding allowance certificate relating to the withholding allowance to which the employee is so entitled, which shall in no event exceed the amount to which the employee is entitled on such day.

##### **(C) Change of status which affects next calendar year**

If on any day during the calendar year the withholding allowance to which the employee will be, or may reasonably be expected to be, entitled at the beginning of the employee's next taxable year under subtitle A is different from the allowance to which the employee is entitled on such day, the employee shall, in such cases and at such times as the Secretary shall by regulations prescribe, furnish the employer with a withholding allowance certificate relating to the withholding allowance which the employee claims with respect to such next taxable year,

**26 USC 3401: Definitions**

Text contains those laws in effect on April 27, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle C-Employment Taxes

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**§3401. Definitions****(a) Wages**

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid-

(1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section,

(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)),

(3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority,

(4) for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if-

(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or

(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter,

(5) for services by a citizen or resident of the United States for a foreign government or an international organization,

(6) for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary,

[(7) Repealed. Pub. L. 89-809, title I, §103(k), Nov. 13, 1966, 80 Stat. 1554 ]

(8)(A) for services for an employer (other than the United States or any agency thereof)-

(i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 911, or

(ii) performed in a foreign country or in a possession of the United States by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration,

(B) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services,

(C) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico, or

(D) for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession,

(9) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order,

(10)(A) for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(B) for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back,

(11) for services not in the course of the employer's trade or business, to the extent paid in any medium other than cash,

(12) to, or on behalf of, an employee or his beneficiary-

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust,

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a),

(C) for a payment described in section 402(h)(1) and (2) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to an exclusion under such section for payment,

(D) under an arrangement to which section 408(p) applies, or

(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A),

(13) pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such Act,

(14) in the form of group-term life insurance on the life of an employee,

(15) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274(n)),

(16)(A) as tips in any medium other than cash,<sup>1</sup>

(B) as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more,

(17) for service described in section 3121(b)(20),

(18) for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, 129, 134(b)(4), or 134(b)(5),

(19) for any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 108(f)(4), 117, or 132,

(20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6)),

(21) for any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b),

(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(d), or

(23) for any benefit or payment which is excludable from the gross income of the employee under section 139B(b).

The term "wages" includes any amount includible in gross income of an employee under section 409A and payment of such amount shall be treated as having been made in the taxable year in which the amount is so includible.

#### **(b) Payroll period**

For purposes of this chapter, the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

#### **(c) Employee**

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

#### **(d) Employer**

For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that-

(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and

(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.

**[(e) Repealed. Pub. L. 115-97, title I, §11041(c)(2)(A), Dec. 22, 2017, 131 Stat. 2082 ]**



Form **W-4**Department of the Treasury  
Internal Revenue Service**Employee's Withholding Certificate**

OMB No. 1545-0074

**2022**

- ▶ **Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay.**  
 ▶ **Give Form W-4 to your employer.**  
 ▶ **Your withholding is subject to review by the IRS.**

<b>Step 1:</b> <b>Enter Personal Information</b>	(a) First name and middle initial	Last name	(b) Social security number
	Address		▶ <b>Does your name match the name on your social security card?</b> If not, to ensure you get credit for your earnings, contact SSA at 800-772-1213 or go to <a href="http://www.ssa.gov">www.ssa.gov</a> .
	City or town, state, and ZIP code		
	(c) <input type="checkbox"/> Single or Married filing separately <input type="checkbox"/> Married filing jointly or Qualifying widow(er) <input type="checkbox"/> Head of household (Check only if you're unmarried and pay more than half the costs of keeping up a home for yourself and a qualifying individual.)		

**Complete Steps 2–4 ONLY if they apply to you; otherwise, skip to Step 5.** See page 2 for more information on each step, who can claim exemption from withholding, when to use the estimator at [www.irs.gov/W4App](http://www.irs.gov/W4App), and privacy.

**Step 2:**  
**Multiple Jobs or Spouse Works**

Complete this step if you (1) hold more than one job at a time, or (2) are married filing jointly and your spouse also works. The correct amount of withholding depends on income earned from all of these jobs.

Do **only one** of the following.

(a) Use the estimator at [www.irs.gov/W4App](http://www.irs.gov/W4App) for most accurate withholding for this step (and Steps 3–4); **or**

(b) Use the Multiple Jobs Worksheet on page 3 and enter the result in Step 4(c) below for roughly accurate withholding; **or**

(c) If there are only two jobs total, you may check this box. Do the same on Form W-4 for the other job. This option is accurate for jobs with similar pay; otherwise, more tax than necessary may be withheld . . . ▶ ☐

**TIP:** To be accurate, submit a 2022 Form W-4 for all other jobs. If you (or your spouse) have self-employment income, including as an independent contractor, use the estimator.

**Complete Steps 3–4(b) on Form W-4 for only ONE of these jobs.** Leave those steps blank for the other jobs. (Your withholding will be most accurate if you complete Steps 3–4(b) on the Form W-4 for the highest paying job.)

<b>Step 3:</b> <b>Claim Dependents</b>	If your total income will be \$200,000 or less (\$400,000 or less if married filing jointly):		
	Multiply the number of qualifying children under age 17 by \$2,000 ▶ \$		
	Multiply the number of other dependents by \$500 . . . ▶ \$		
	Add the amounts above and enter the total here . . . . .	<b>3</b>	\$
<b>Step 4 (optional):</b> <b>Other Adjustments</b>	(a) <b>Other income (not from jobs).</b> If you want tax withheld for other income you expect this year that won't have withholding, enter the amount of other income here. This may include interest, dividends, and retirement income . . . . .	<b>4(a)</b>	\$
	(b) <b>Deductions.</b> If you expect to claim deductions other than the standard deduction and want to reduce your withholding, use the Deductions Worksheet on page 3 and enter the result here . . . . .	<b>4(b)</b>	\$
	(c) <b>Extra withholding.</b> Enter any additional tax you want withheld each <b>pay period</b> . . . . .	<b>4(c)</b>	\$

<b>Step 5:</b> <b>Sign Here</b>	Under penalties of perjury, I declare that this certificate, to the best of my knowledge and belief, is true, correct, and complete.		
	▶ <b>Employee's signature</b> (This form is not valid unless you sign it.)		▶ <b>Date</b>
<b>Employers Only</b>	Employer's name and address	First date of employment	Employer identification number (EIN)

**26 USC 7701: Definitions**

Text contains those laws in effect on July 12, 2020

**From Title 26-INTERNAL REVENUE CODE**

Subtitle F-Procedure and Administration

**CHAPTER 79-DEFINITIONS****Jump To:**

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**§7701. Definitions**

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-

**(1) Person**

The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

**(2) Partnership and partner**

The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

**(3) Corporation**

The term "corporation" includes associations, joint-stock companies, and insurance companies.

**(4) Domestic**

The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

**(5) Foreign**

The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

**(6) Fiduciary**

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

**(7) Stock**

The term "stock" includes shares in an association, joint-stock company, or insurance company.

**(8) Shareholder**

The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

**(9) United States**

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

**(10) State**

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

**(11) Secretary of the Treasury and Secretary****(A) Secretary of the Treasury**

The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

**(B) Secretary**

Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B), and

(xi) any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

#### **(20) Employee**

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21.

#### **(21) Levy**

The term "levy" includes the power of distraint and seizure by any means.

#### **(22) Attorney General**

The term "Attorney General" means the Attorney General of the United States.

#### **(23) Taxable year**

The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

#### **(24) Fiscal year**

The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

#### **(25) Paid or incurred, paid or accrued**

The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

#### **(26) Trade or business**


The term "trade or business" includes the performance of the functions of a public office.

#### **(27) Tax Court**

The term "Tax Court" means the United States Tax Court.

#### **(28) Other terms**

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

<b>a</b> Employee's social security number		Safe, accurate, FAST! Use		 Visit the IRS website at www.irs.gov/efile	
OMB No. 1545-0008					
<b>b</b> Employer identification number (EIN)		<b>1</b> Wages, tips, other compensation		<b>2</b> Federal income tax withheld	
<b>c</b> Employer's name, address, and ZIP code		<b>3</b> Social security wages		<b>4</b> Social security tax withheld	
		<b>5</b> Medicare wages and tips		<b>6</b> Medicare tax withheld	
		<b>7</b> Social security tips		<b>8</b> Allocated tips	
<b>d</b> Control number		<b>9</b>		<b>10</b> Dependent care benefits	
<b>e</b> Employee's first name and initial      Last name      Suff.		<b>11</b> Nonqualified plans		<b>12a</b> See instructions for box 12	
		<b>13</b> Statutory employee      Retirement plan      Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		<b>12b</b>	
		<b>14</b> Other		<b>12c</b>	
<b>f</b> Employee's address and ZIP code				<b>12d</b>	
<b>15</b> State	Employer's state ID number	<b>16</b> State wages, tips, etc.	<b>17</b> State income tax	<b>18</b> Local wages, tips, etc.	<b>19</b> Local income tax
					<b>20</b> Locality name

Form **W-2** Wage and Tax Statement

2022

Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.  
This information is being furnished to the Internal Revenue Service.

**26 USC 6051: Receipts for employees**

Text contains those laws in effect on December 20, 2021

**From 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

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**§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 an identifying number for the employee 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) Repealed. Pub. L. 111–226, title II, §219(a)(3), Aug. 10, 2010, 124 Stat. 2403 ]
- (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,
- (13) the total amount of deferrals for the year under a nonqualified deferred compensation plan (within the meaning of section 409A(d)),
- (14) the aggregate cost (determined under rules similar to the rules of section 4980B(f)(4)) of applicable employer-sponsored coverage (as defined in subsection (g)), except that this paragraph shall not apply to-
  - (A) coverage to which paragraphs (11) and (12) apply, or
  - (B) the amount of any salary reduction contributions to a flexible spending arrangement (within the meaning of section 125),
- (15) the total amount of permitted benefit (as defined in section 9831(d)(3)(C)) for the year under a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2)) with respect to the employee,
- (16) the amount includible in gross income under subparagraph (A) of section 83(i)(1) with respect to an event described in subparagraph (B) of such section which occurs in such calendar year, and
- (17) the aggregate amount of income which is being deferred pursuant to elections under section 83(i), determined as of the close of the calendar year.

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**

**4 USC 72: Public offices; at seat of Government**

Text contains those laws in effect on September 13, 2022

From **Title 4-FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES**  
CHAPTER 3-SEAT OF THE GOVERNMENT

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**§72. Public offices; at seat of Government**

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

(July 30, 1947, ch. 389, 61 Stat. 643 .)



# Attachment P

## CONSTITUTION OF THE UNITED STATES OF AMERICA—1787<sup>1</sup>

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE. I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

<sup>1</sup>This text of the Constitution follows the engrossed copy signed by Gen. Washington and the deputies from 12 States. The small superior figures preceding the paragraphs designate clauses, and were not in the original and have no reference to footnotes.

In May 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report, (drawn by Mr. Hamilton, of New York,) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the Second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled as, when agreed to by them and afterwards confirmed by the Legislatures of every State, would effectually provide for the same.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to Congress, with a resolution stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Con-

SECTION. 2. <sup>1</sup>The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

<sup>2</sup>No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

<sup>3</sup>Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.<sup>2</sup> The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

<sup>4</sup>When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

<sup>5</sup>The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. <sup>1</sup>The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof,<sup>3</sup> for six Years; and each Senator shall have one Vote.

stitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 25, 1788; and New York, July 26, 1788.

The President informed Congress, on the 28th of January, 1790, that North Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1790. Vermont, in convention, ratified the Constitution January 10, 1791, and was, by an act of Congress approved February 18, 1791, "received and admitted into this Union as a new and entire member of the United States."

<sup>2</sup>The part of this clause relating to the mode of apportionment of representatives among the several States has been affected by section 2 of amendment XIV, and as to taxes on incomes without apportionment by amendment XVI.

<sup>3</sup>This clause has been affected by clause 1 of amendment XVII.

<sup>2</sup>Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.<sup>4</sup>

<sup>3</sup>No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

<sup>4</sup>The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

<sup>5</sup>The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

<sup>6</sup>The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

<sup>7</sup>Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. <sup>1</sup>The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

<sup>2</sup>The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December,<sup>5</sup> unless they shall by Law appoint a different Day.

SECTION. 5. <sup>1</sup>Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

<sup>2</sup>Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

<sup>3</sup>Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their

Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

<sup>4</sup>Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. <sup>1</sup>The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.<sup>6</sup> They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

<sup>2</sup>No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. <sup>1</sup>All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

<sup>2</sup>Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

<sup>3</sup>Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. <sup>1</sup>The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Ex-

<sup>4</sup>This clause has been affected by clause 2 of amendment XVIII.

<sup>5</sup>This clause has been affected by amendment XX.

<sup>6</sup>This clause has been affected by amendment XXVII.

cises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

<sup>2</sup>To borrow Money on the credit of the United States;

<sup>3</sup>To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

<sup>4</sup>To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

<sup>5</sup>To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

<sup>6</sup>To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

<sup>7</sup>To establish Post Offices and post Roads;

<sup>8</sup>To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

<sup>9</sup>To constitute Tribunals inferior to the supreme Court;

<sup>10</sup>To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

<sup>11</sup>To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

<sup>12</sup>To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

<sup>13</sup>To provide and maintain a Navy;

<sup>14</sup>To make Rules for the Government and Regulation of the land and naval Forces;

<sup>15</sup>To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

<sup>16</sup>To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

<sup>17</sup>To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings:—And

<sup>18</sup>To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. <sup>1</sup>The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

<sup>2</sup>The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of

Rebellion or Invasion the public Safety may require it.

<sup>3</sup>No Bill of Attainder or ex post facto Law shall be passed.

<sup>4</sup>No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.<sup>7</sup>

<sup>5</sup>No Tax or Duty shall be laid on Articles exported from any State.

<sup>6</sup>No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

<sup>7</sup>No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

<sup>8</sup>No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. <sup>1</sup>No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

<sup>2</sup>No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

<sup>3</sup>No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## ARTICLE. II.

SECTION. 1. <sup>1</sup>The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

<sup>2</sup>Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

<sup>3</sup>The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall

<sup>7</sup>This clause has been affected by amendment XVI.