

such provisions or amendments in the case of any individual who died prior to Sept. 13, 1960.

#### CROSS REFERENCES

Abatements, credits, and refunds, income tax withheld, see section 6414 of this title.

Applicability of revenue laws, see section 7851 of this title.

Foreign tax-exempt organizations, see section 1443 of this title.

Mitigation of effect of limitations in case of related taxes under different chapters, see section 6521 of this title.

Publicity of returns and lists of taxpayers, see section 6103 of this title.

Tax on nonresident alien individuals, see section 871 of this title.

Tax withheld at source on nonresident aliens, foreign corporations, and tax-free covenant bonds, see section 32 of this title.

### § 1403. Miscellaneous provisions.

#### (a) Title of chapter.

This chapter may be cited as the "Self-Employment Contributions Act of 1954".

#### (b) Cross references.

(1) For provisions relating to returns see section 6617.

(2) For provisions relating to collection of taxes in Virgin Islands, Guam, American Samoa, and Puerto Rico, see section 7651.

(Aug. 16, 1954, ch. 736, 68A Stat. 355; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(m), 74 Stat. 938.)

#### AMENDMENTS

1960—Subsec. (b). Pub. L. 86-778 included Guam and American Samoa in par. (2).

### Chapter 3.—WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS AND TAX-FREE COVENANT BONDS

#### Subchapter

A. Nonresident aliens and foreign corporations.

B. Tax-free covenant bonds.

C. Application of withholding provisions.

#### Subchapter A.—Nonresident Aliens and Foreign Corporations

##### Sec.

1441. Withholding of tax on nonresident aliens.

1442. Withholding of tax on foreign corporations.

1443. Foreign tax-exempt organizations.

### § 1441. Withholding of tax on nonresident aliens.

#### (a) General rule.

Except as otherwise provided in subsection (c), all persons, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States) having the control, receipt, custody, disposal, or payment of any of the items of income specified in subsection (b) (to the extent that any of such items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and composed in whole or in part of nonresident aliens, shall (except in the cases provided for in section 1451 and except as otherwise provided in regulations prescribed by the Secretary or his delegate under section 874) deduct and withhold from such items a tax equal to 30 percent thereof, except that in the case of any item of income specified in the second sentence of subsection

(b), the tax shall be equal to 14 percent of such item.

#### (b) Income items.

The items of income referred to in subsection (a) are interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, and amounts described in section 402(a)(2), section 403(a)(2), section 631 (b) and (c), and section 1235, which are considered to be gains from the sale or exchange of capital assets. The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 18 percent are—

(1) that portion of any scholarship or fellowship grant which is received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is not excluded from gross income under section 117(a)(1) solely by reason of section 117(b)(2)(B); and

(2) amounts described in subparagraphs (A), (B), (C), and (D) of section 117(a)(2) which are received by any such nonresident alien individual and which are incident to a scholarship or fellowship grant to which section 117(a)(1) applies, but only to the extent such amounts are includible in gross income.

#### (c) Exceptions.

##### (1) Dividends of foreign corporations.

No deduction or withholding under subsection (a) shall be required in the case of dividends paid by a foreign corporation unless (A) such corporation is engaged in trade or business within the United States, and (B) more than 85 percent of the gross income of such corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under part I of subchapter N of chapter 1.

##### (2) Owner unknown.

The Secretary or his delegate may authorize the tax under subsection (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

##### (3) Bonds with extended maturity dates.

The deduction and withholding in the case of interest on bonds, mortgages, or deeds of trust or other similar obligations of a corporation, within subsections (a), (b), and (c) of section 1451 were it not for the fact that the maturity date of such obligations has been extended on or after January 1, 1934, and the liability assumed by the debtor exceeds 27½ percent of the interest, shall not exceed the rate of 27½ percent per annum.

**(4) Compensation of certain aliens.**

Under regulations prescribed by the Secretary or his delegate, there may be exempted from deduction and withholding under subsection (a) the compensation for personal services of—

(A) nonresident alien individuals who enter and leave the United States at frequent intervals, and

(B) a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended.

**(5) Special items.**

In the case of amounts described in section 402 (a) (2), section 403 (a) (2), section 631 (b) and (c), and section 1235, which are considered to be gains from the sale or exchange of capital assets, the amount required to be deducted and withheld shall, if the amount of such gain is not known to the withholding agent, be such amount, not exceeding 30 percent of the proceeds from such sale or exchange, as may be necessary to assure that the tax deducted and withheld shall not be less than 30 percent of such gain.

**(6) Per diem of certain aliens.**

No deduction or withholding under subsection (a) shall be required in the case of amounts of per diem for subsistence paid by the United States Government (directly or by contract) to any nonresident alien individual who is engaged in any program of training in the United States under the Mutual Security Act of 1954, as amended.

**(d) Alien resident of Puerto Rico.**

For purposes of this section, the term "nonresident alien individual" includes an alien resident of Puerto Rico. (Aug. 16, 1954, ch. 736, 68A Stat. 357; Aug. 26, 1954, ch. 937, title V, § 544(f), as added July 18, 1956, ch. 627, § 11(a), 70 Stat. 563; Aug. 14, 1957, Pub. L. 85-141, § 11(b)(1), 71 Stat. 365; Sept. 2, 1958, Pub. L. 85-866, title I, § 40(b), 72 Stat. 1638; Sept. 21, 1961, Pub. L. 87-256, § 110(d), 75 Stat. 536; Feb. 26, 1964, Pub. L. 88-272, title III, § 302(c), 78 Stat. 146.)

**REFERENCES IN TEXT**

Section 101(a)(15) of the Immigration and Nationality Act, as amended, referred to in subssecs. (b) and (c) (4), is classified to section 1101(a)(15) of Title 8, Aliens and Nationality.

**AMENDMENTS**

1964—Subsecs. (a) and (b). Pub. L. 88-272 reduced the withholding rate from 18% to 14%.

1961—Subsec. (a). Pub. L. 87-256, § 110(d)(1), required a tax equal to 18 percent of the item in the case of any item of income specified in the second sentence of subsection (b).

Subsec. (b). Pub. L. 87-256, § 110(d)(2), inserted provisions listing the items of income from which tax shall be deducted and withheld at the rate of 18 percent.

Subsec. (c)(4). Pub. L. 87-256, § 110(d)(3), authorized the exemption from deduction and withholding of the compensation for personal services of a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subpar. (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended.

1958—Subsec. (b). Pub. L. 85-866 inserted "section 403(a)(2)," after "section 402(a)(2)."

Subsec. (c)(5). Pub. L. 85-866, inserted "section 403(a)(2)," after "section 402(a)(2)."

1956—Subsec. (c). Act July 18, 1956, added section 544 (f) to act Aug. 26, 1954, which section amended this subsection by adding par. (6).

**EFFECTIVE DATE OF 1964 AMENDMENT**

Amendment of section by Pub. L. 88-272 applicable to payments made after the seventh day following Feb. 24, 1964, see section 302(d) of Pub. L. 88-272, set out as a note under section 3402 of this title.

**EFFECTIVE DATE OF 1961 AMENDMENT**

Section 110(h)(2) of Pub. L. 87-256 provided that: "The amendments made by subsection (d) of this section [to this section] shall apply with respect to payments made after December 31, 1961."

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment of this section effective on Sept. 3, 1958, see section 40 (c) of Pub. L. 85-866, set out as a note under section 871 of this title.

**REPEALS**

Pub. L. 85-141 repealed section 544 (f) of act August 26, 1954, except insofar as such section 544 (f) affected this section.

**CROSS REFERENCES**

Consent dividends, see section 565 of this title.

**§ 1442. Withholding of tax on foreign corporations.**

In the case of foreign corporations subject to taxation under this subtitle not engaged in trade or business within the United States, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein. (Aug. 16, 1954, ch. 736, 68A Stat. 358.)

**CROSS REFERENCES**

Consent dividends, see section 565 of this title.

**§ 1443. Foreign tax-exempt organizations.**

In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to rents includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary or his delegate. (Aug. 16, 1954, ch. 736, 68A Stat. 358.)

**CROSS REFERENCES**

Credits against tax, see section 32 (1) of this title.  
Itemized deductions, see section 164 of this title.

**Subchapter B.—Tax-Free Covenant Bonds**

Sec.

1451. Tax-free covenant bonds.

**§ 1451. Tax-free covenant bonds.****(a) Requirement of withholding.**

In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this subtitle on the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 percent (regardless of whether the liability assumed by the

obligor is less than, equal to, or greater than 2 percent) of the interest on such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to—

- (1) an individual,
- (2) a partnership, or
- (3) a foreign corporation not engaged in trade or business within the United States.

**(b) Payments to foreigners.**

Notwithstanding subsection (a), if the liability assumed by the obligor does not exceed 2 percent of the interest, then the deduction and withholding shall be at the rate of 30 percent in the case of—

- (1) a nonresident alien individual,
- (2) any partnership not engaged in trade or business within the United States and composed in whole or in part of nonresident aliens, and
- (3) a foreign corporation not engaged in trade or business within the United States.

**(c) Owner unknown.**

If the owners of such obligations are not known to the withholding agent, the Secretary or his delegate may authorize such deduction and withholding to be at the rate of 2 percent, or, if the liability assumed by the obligor does not exceed 2 percent of the interest, then at the rate of 30 percent.

**(d) Benefit of personal exemptions.**

Deduction and withholding under this section shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the deduction for personal exemptions provided in section 151; nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Secretary or his delegate under section 874.

**(e) Alien residents of Puerto Rico.**

For purposes of this section, the term "nonresident alien individual" includes an alien resident of Puerto Rico.

**(f) Income of obligor and obligee.**

The obligor shall not be allowed a deduction for the payment of the tax imposed by this subtitle, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee. (Aug. 16, 1954, ch. 736, 68A Stat. 359.)

**CROSS REFERENCES**

Credits against tax, see section 32 (2) of this title.  
 Definition of deficiency, see section 6211 of this title.  
 Itemized deductions, see section 164 of this title.  
 Withholding of tax on foreign individuals and corporations, see sections 1441, 1442 of this title.

**Subchapter C.—Application of Withholding Provisions**

Sec.

1461. Return and payment of withheld tax.  
 1462. Withheld tax as credit to recipient of income.  
 1463. Tax paid by recipient of income.  
 1464. Refunds and credits with respect to withheld tax.  
 1465. Definition of withholding agent.

**§ 1461. Return and payment of withheld tax.**

Every person required to deduct and withhold any tax under this chapter shall, on or before March 15 of each year, make return thereof and pay the tax

to the officer designated in section 6151. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter. (Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**§ 1462. Withheld tax as credit to recipient of income.**

Income on which any tax is required to be withheld at the source under this chapter shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return. (Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**CROSS REFERENCES**

Applicability of revenue laws, see section 7851 (a) (1) (B) of this title.

**§ 1463. Tax paid by recipient of income.**

If any tax required under this chapter to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed on or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment. (Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**§ 1464. Refunds and credits with respect to withheld tax.**

Where there has been an overpayment of tax under this chapter, any refund or credit made under chapter 65 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent. (Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**§ 1465. Definition of withholding agent.**

The term "withholding agent" means any person required to deduct and withhold any tax under this chapter. (Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**Chapter 4.—RULES APPLICABLE TO RECOVERY OF EXCESSIVE PROFITS ON GOVERNMENT CONTRACTS**

**Subchapter**

- A. Recovery of Excessive Profits on Government Contracts.
- B. Mitigation of Effect of Renegotiation of Government Contracts.

**Subchapter A.—Recovery of Excessive Profits on Government Contracts**

Sec.

1471. Recovery of excessive profits on Government contracts.

**§ 1471. Recovery of excessive profits on government contracts.**

**(a) Method of collection.**

If the amount of profit required to be paid into the Treasury under section 3 of the Act of March 27, 1934, as amended (34 U. S. C. 496), with respect to contracts completed within taxable years subject to this code is not voluntarily paid, the Secretary or his delegate shall collect the same under the methods employed to collect taxes under this subtitle.