

Law 248, approved October 31, 1951, 65 Stat. 713), and as President of the United States, I hereby authorize and direct the Secretary of State to affix the Seal of the United States, pursuant to section 42 of title 4 of the United States Code [this section], without any special warrant therefor, other than this order, to each document included within any of the following classes of documents when such document has been signed by the President and, in the case of any such document to which the counter-signature of the Secretary of State is required to be affixed, has been counter-signed by the said Secretary:

1. Proclamations by the President of treaties, conventions, protocols, or other international agreements.
2. Instruments of ratification of treaties.
3. Full powers to negotiate treaties and to exchange ratifications.
4. Letters of credence and recall and other communications from the President to heads of foreign governments.
5. Exequaturs issued to those foreign consular officers in the United States whose commissions bear the signature of the chief of state which they represent.

CHAPTER 3—SEAT OF THE GOVERNMENT

Sec.

71. Permanent seat of Government.
72. Public offices; at seat of Government.
73. Same; removal from seat of Government.

§ 71. Permanent seat of Government

All that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of government of the United States.

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

§ 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.)

§ 73. Same; removal from seat of Government

In case of the prevalence of a contagious or epidemic disease at the seat of government, the President may permit and direct the removal of any or all the public offices to such other place or places as he shall deem most safe and convenient for conducting the public business.

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

CHAPTER 4—THE STATES

Sec.

101. Oath by members of legislatures and officers.
102. Same; by whom administered.
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104. Tax on motor fuel sold on military or other reservation; reports to State taxing authority.
105. State, etc., taxation affecting Federal areas; sales or use tax.¹
106. Same; income tax.
107. Same; exception of United States, its instrumentalities, and authorized purchasers therefrom.
108. Same; jurisdiction of United States over Federal areas unaffected.
109. Same; exception of Indians.

¹ So in original. Does not conform to section catchline.

110. Same; definitions.
111. Same; taxation affecting Federal employees; income tax.
112. Compacts between States for cooperation in prevention of crime; consent of Congress.
113. Residence of Members of Congress for State income tax laws.
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115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.
116. Rules for determining State and local government treatment of charges related to mobile telecommunications services.
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123. Scope; special rules.
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Editorial Notes

AMENDMENTS

2000—Pub. L. 106-252, §2(b), July 28, 2000, 114 Stat. 633, added items 116 to 126.

1998—Pub. L. 105-261, div. A, title X, §1075(a)(2), Oct. 17, 1998, 112 Stat. 2138, added item 115.

1996—Pub. L. 104-95, §1(b), Jan. 10, 1996, 109 Stat. 980, added item 114.

1977—Pub. L. 95-67, §1(b), July 19, 1977, 91 Stat. 271, added item 113.

1966—Pub. L. 89-554, §2(b), Sept. 6, 1966, 80 Stat. 608, added item 111 and redesignated former item 111 as 112.

1949—Act May 24, 1949, ch. 139, §129(a), 63 Stat. 107, added item 111.

Statutory Notes and Related Subsidiaries

CIVIL AND CRIMINAL JURISDICTION OVER INDIANS

Amendment of State Constitutions to remove legal impediment to the assumption of civil and criminal jurisdiction in accordance with the provisions of section 1162 of Title 18 and section 1360 of Title 28, see act Aug. 15, 1953, ch. 505, §6, 67 Stat. 590, set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure.

Consent of United States to other States to assume jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in section 1162 of Title 18 and section 1360 of Title 28, see act Aug. 15, 1953, ch. 505, §7, 67 Stat. 590, set out as a note under section 1360 of Title 28.

§ 101. Oath by members of legislatures and officers

Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."

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

§ 102. Same; by whom administered

Such oath may be administered by any person who, by the law of the State, is authorized to ad-

² So in original. Probably should be followed by a period.

minister the oath of office; and the person so administering such oath shall cause a record or certificate thereof to be made in the same manner, as by the law of the State, he is directed to record or certify the oath of office.

(July 30, 1947, ch. 389, 61 Stat. 644.)

§ 103. Assent to purchase of lands for forts

The President of the United States is authorized to procure the assent of the legislature of any State, within which any purchase of land has been made for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, without such consent having been obtained.

(July 30, 1947, ch. 389, 61 Stat. 644.)

§ 104. Tax on motor fuel sold on military or other reservation¹ reports to State taxing authority

(a) All taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels may be levied, in the same manner and to the same extent, with respect to such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the State, Territory, or the District of Columbia, within whose borders the reservation affected may be located.

(b) The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the State, Territory, or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel with respect to which taxes are payable under subsection (a) for the preceding month.

(c) As used in this section, the term “Territory” shall include Guam.

(July 30, 1947, ch. 389, 61 Stat. 644; Aug. 1, 1956, ch. 827, 70 Stat. 799.)

Editorial Notes

AMENDMENTS

1956—Subsec. (c) added by act Aug. 1, 1956.

Statutory Notes and Related Subsidiaries

CIVIL AIRPORTS OWNED BY UNITED STATES SUBJECT TO SECTIONS 104 TO 110; SALES OR USE TAXES: FUELS FOR AIRCRAFT OR OTHER SERVICING OF AIRCRAFT; LANDING OR TAKING OFF CHARGES; LEASES

Pub. L. 91-258, title II, § 210, May 21, 1970, 84 Stat. 253, provided that:

“(a) Nothing in this title or in any other law of the United States shall prevent the application of sections 104 through 110 of title 4 of the United States Code to civil airports owned by the United States.

“(b) Subsection (a) shall not apply to—

¹ So in original. Probably should be followed by a semicolon.

“(1) sales or use taxes in respect of fuels for aircraft or in respect of other servicing of aircraft, or

“(2) taxes, fees, head charges, or other charges in respect of the landing or taking off of aircraft or aircraft passengers or freight.

“(c) In the case of any lease in effect on September 28, 1969, subsection (a) shall not authorize the levy or collection of any tax in respect of any transaction occurring, or any service performed, pursuant to such lease before the expiration of such lease (determined without regard to any renewal or extension of such lease made after September 28, 1969). For purposes of the preceding sentence, the term ‘lease’ includes a contract.”

§ 105. State, and so forth, taxation affecting Federal areas; sales or use tax

(a) No person shall be relieved from liability for payment of, collection of, or accounting for any sales or use tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the sale or use, with respect to which such tax is levied, occurred in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to sales or purchases made, receipts from sales received, or storage or use occurring, after December 31, 1940.

(July 30, 1947, ch. 389, 61 Stat. 644.)

Statutory Notes and Related Subsidiaries

TAXATION WITH RESPECT TO ESSENTIAL SUPPORT ACTIVITIES OR FUNCTIONS OF NON-GOVERNMENTAL PERSONS IN CONGRESSIONALLY-CONTROLLED LOCATIONS IN DISTRICT OF COLUMBIA

Pub. L. 100-202, § 101(i) [title III, § 307], Dec. 22, 1987, 101 Stat. 1329-290, 1329-309, as amended by Pub. L. 104-186, title II, § 214, Aug. 20, 1996, 110 Stat. 1745, provided that:

“(a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

“(b) As used in this section—

“(1) the term ‘essential support activity or function’ means a support activity or function so designated by the Committee on House Oversight [now Committee on House Administration] of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

“(2) the term ‘personal property tax’ means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

“(3) the term ‘sales, use, or similar excise tax’ means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

“(4) the term ‘State’ means a State of the United States, the District of Columbia, or a territory or possession of the United States.

“(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.”

§ 106. Same; income tax

(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940.

(July 30, 1947, ch. 389, 61 Stat. 644.)

§ 107. Same; exception of United States, its instrumentalities, and authorized purchases¹ therefrom

(a) The provisions of sections 105 and 106 of this title shall not be deemed to authorize the levy or collection of any tax on or from the United States or any instrumentality thereof, or the levy or collection of any tax with respect to sale, purchase, storage, or use of tangible personal property sold by the United States or any instrumentality thereof to any authorized purchaser.

(b) A person shall be deemed to be an authorized purchaser under this section only with respect to purchases which he is permitted to make from commissaries, ship's stores, or voluntary unincorporated organizations of personnel of any branch of the Armed Forces of the United States, under regulations promulgated by the departmental Secretary having jurisdiction over such branch.

(July 30, 1947, ch. 389, 61 Stat. 645; Sept. 3, 1954, ch. 1263, § 4, 68 Stat. 1227.)

Editorial Notes

AMENDMENTS

1954—Subsec. (b). Act Sept. 3, 1954, substituted “personnel of any branch of the Armed Forces of the United States” for “Army or Navy personnel”.

§ 108. Same; jurisdiction of United States over Federal areas unaffected

The provisions of sections 105–110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area.

(July 30, 1947, ch. 389, 61 Stat. 645.)

§ 109. Same; exception of Indians

Nothing in sections 105 and 106 of this title shall be deemed to authorize the levy or collec-

tion of any tax on or from any Indian not otherwise taxed.

(July 30, 1947, ch. 389, 61 Stat. 645.)

§ 110. Same; definitions

As used in sections 105–109 of this title—

(a) The term “person” shall have the meaning assigned to it in section 3797 of title 26.

(b) The term “sales or use tax” means any tax levied on, with respect to, or measured by, sales, receipts from sales, purchases, storage, or use of tangible personal property, except a tax with respect to which the provisions of section 104 of this title are applicable.

(c) The term “income tax” means any tax levied on, with respect to, or measured by, net income, gross income, or gross receipts.

(d) The term “State” includes any Territory or possession of the United States.

(e) The term “Federal area” means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency, of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State.

(July 30, 1947, ch. 389, 61 Stat. 645.)

Editorial Notes

REFERENCES IN TEXT

Section 3797 of title 26, referred to in subsec. (a), is a reference to section 3797 of the Internal Revenue Code of 1939, which was repealed by section 7851 of the Internal Revenue Code of 1954, Title 26, and is covered by section 7701(a)(1) of Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See also section 7852(b) of Title 26, Internal Revenue Code, for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

§ 111. Same; taxation affecting Federal employees; income tax

(a) GENERAL RULE.—The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation.

(b) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

(1) which is owned by the United States;

(2) which is located on the Columbia River; and

(3) portions of which are within the States of Oregon and Washington,

¹ So in original. Probably should be “purchasers”.

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

- (1) which is owned by the United States;
- (2) which is located on the Missouri River; and
- (3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

(Added Pub. L. 89-554, §2(c), Sept. 6, 1966, 80 Stat. 608; amended Pub. L. 105-261, div. A, title X, §1075(b)(1), Oct. 17, 1998, 112 Stat. 2138.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 84a ...	Apr. 12, 1939, ch. 59, §4, 53 Stat. 575.

The words “received after December 31, 1938,” are omitted as obsolete. The words “pay or” are added before “compensation” for clarity as the word “pay” is used throughout title 5, United States Code, to refer to the remuneration, salary, wages, or compensation for the personal services of a Federal employee. The word “territory” is not capitalized as there are no longer any “Territories.” The words “to tax such compensation” are omitted as unnecessary.

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-261 designated existing provisions as subsec. (a), inserted heading, and added subsections (b) and (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title X, §1075(b)(2), Oct. 17, 1998, 112 Stat. 2139, provided that: “The amendment made by this subsection [amending this section] shall apply to pay and compensation paid after the date of the enactment of this Act [Oct. 17, 1998].”

§ 112. Compacts between States for cooperation in prevention of crime; consent of Congress

(a) The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

(b) For the purpose of this section, the term “States” means the several States and Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia.

(Added May 24, 1949, ch. 139, §129(b), 63 Stat. 107, §112, formerly §111; amended Aug. 3, 1956, ch. 941,

70 Stat. 1020; Pub. L. 87-406, Feb. 16, 1962, 76 Stat. 9; renumbered §112, Pub. L. 89-554, §2(c), Sept. 6, 1966, 80 Stat. 608.)

HISTORICAL AND REVISION NOTES

This section [section 129(b) of Act May 24, 1949] incorporates in title 4, U.S.C. (enacted into positive law by act of July 30, 1947 (ch. 389, §1, 61 Stat. 641), the provisions of former section 420 of title 18, U.S.C. (act of June 6, 1934, ch. 406, 48 Stat. 909), which, in the course of the revision of such title 18, was omitted therefrom and recommended for transfer to such title 4. (See table 7—Transferred sections, p. A219, H. Rept. No. 304, April 24, 1947, to accompany H.R. 3190, 80th Cong.).

Editorial Notes

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-406 inserted “Guam” after “the Virgin Islands,”.

1956—Act Aug. 3, 1956, designated existing provisions as subsec. (a) and added subsec. (b).

Executive Documents

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 113. Residence of Members of Congress for State income tax laws

(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

(2) treat any compensation paid by the United States to such Member as income for services performed within, or from sources within, such State or political subdivision thereof,

unless such Member represents such State or a district in such State.

(b) For purposes of subsection (a)—

(1) the term “Member of Congress” includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico; and

(2) the term “State” includes the District of Columbia.

(Added Pub. L. 95-67, §1(a), July 19, 1977, 91 Stat. 271.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 95-67, §1(c), July 19, 1977, 91 Stat. 271, provided that: “The amendments made by subsections (a) and (b) [enacting this section and amending analysis preceding section 101 of this title] shall be effective with respect to all taxable years, whether beginning before, on, or

after the date of the enactment of this Act [July 19, 1977].”

RESIDENCE OF MEMBERS OF CONGRESS FOR STATE
PERSONAL PROPERTY TAX ON MOTOR VEHICLES

Pub. L. 99-190, §101(c) [H.R. 3067, §131], Dec. 19, 1985, 99 Stat. 1224; Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-433, provided that:

“(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may impose a personal property tax with respect to any motor vehicle owned by such Member (or by the spouse of such Member) unless such Member represents such State or a district in such State.

“(b) For purposes of this section—

“(1) the term ‘Member of Congress’ includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico;

“(2) the term ‘State’ includes the District of Columbia; and

“(3) the term ‘personal property tax’ means any tax imposed on an annual basis and levied on, with respect to, or measured by, the market value or assessed value of an item of personal property.

“(c) This section shall apply to all taxable periods beginning on or after January 1, 1985.”

§ 114. Limitation on State income taxation of certain pension income

(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

(b) For purposes of this section—

(1) The term “retirement income” means any income from—

(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

(B) a simplified employee pension as defined in section 408(k) of such Code;

(C) an annuity plan described in section 403(a) of such Code;

(D) an annuity contract described in section 403(b) of such Code;

(E) an individual retirement plan described in section 7701(a)(37) of such Code;

(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

(G) a governmental plan (as defined in section 414(d) of such Code);

(H) a trust described in section 501(c)(18) of such Code; or

(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code (or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins), if such income—

(i) is part of a series of substantially equal periodic payments (not less frequently than annually which may include income described in subparagraphs (A) through (H)) made for—

(I) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

(II) a period of not less than 10 years, or

(ii) is a payment received after termination of employment and under a plan, program, or arrangement (to which such employment relates) maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by 1 or more of sections 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of such Code or any other limitation on contributions or benefits in such Code on plans to which any of such sections apply.

The fact that payments may be adjusted from time to time pursuant to such plan, program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic payments provided under such plan, program, or arrangement to fail the “substantially equal periodic payments” test.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

(2) The term “income tax” has the meaning given such term by section 110(c).

(3) The term “State” includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

(4) For purposes of this section, the term “retired partner” is an individual who is described as a partner in section 7701(a)(2) of the Internal Revenue Code of 1986 and who is retired under such individual’s partnership agreement.

(e)¹ Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 104-95, §1(a), Jan. 10, 1996, 109 Stat. 979; amended Pub. L. 109-264, §1(a), Aug. 3, 2006, 120 Stat. 667.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), (4), is classified generally to Title 26, Internal Revenue Code.

Section 514 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (e), is classified to section 1144 of Title 29, Labor.

AMENDMENTS

2006—Subsec. (b)(1)(I). Pub. L. 109-264, §1(a)(1)–(3), inserted “(or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins)” after “section 3121(v)(2)(C) of such Code” in introductory provisions, “which may include income described in subparagraphs (A) through (H)” after “(not less frequently than annually” in cl. (i), and concluding provisions at end.

Subsec. (b)(4). Pub. L. 109-264, §1(a)(4), which directed the addition of par. (4) at end of subsec. (b)(1)(I), was executed by adding par. (4) at end of subsec. (b) to reflect the probable intent of Congress.

¹ So in original. No subsecs. (c) and (d) have been enacted.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-264, §1(b), Aug. 3, 2006, 120 Stat. 667, provided that: “The amendments made by this section [amending this section] apply to amounts received after December 31, 1995.”

EFFECTIVE DATE

Pub. L. 104-95, §1(c), Jan. 10, 1996, 109 Stat. 980, provided that: “The amendments made by this section [enacting this section] shall apply to amounts received after December 31, 1995.”

§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

(Added Pub. L. 105-261, div. A, title X, §1075(a)(1), Oct. 17, 1998, 112 Stat. 2138.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 105-261, div. A, title X, §1075(a)(3), Oct. 17, 1998, 112 Stat. 2138, provided that: “The amendments made by this subsection [enacting this section] shall apply to pay and compensation paid after the date of the enactment of this Act [Oct. 17, 1998].”

§ 116. Rules for determining State and local government treatment of charges related to mobile telecommunications services

(a) **APPLICATION OF THIS SECTION THROUGH SECTION 126.**—This section through¹ 126 of this title apply to any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

(b) **GENERAL EXCEPTIONS.**—This section through¹ 126 of this title do not apply to—

(1) any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of mobile telecommunications service;

(2) any tax, charge, or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis;

(3) any tax, charge, or fee that represents compensation for a mobile telecommunications service provider's use of public rights of way or other public property, provided that such tax, charge, or fee is not levied by the taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services;

(4) any generally applicable business and occupation tax that is imposed by a State, is applied to gross receipts or gross proceeds, is the legal liability of the home service provider,

and that statutorily allows the home service provider to elect to use the sourcing method required in this section through¹ 126 of this title;

(5) any fee related to obligations under section 254 of the Communications Act of 1934; or

(6) any tax, charge, or fee imposed by the Federal Communications Commission.

(c) **SPECIFIC EXCEPTIONS.**—This section through¹ 126 of this title—

(1) do not apply to the determination of the taxing situs of prepaid telephone calling services;

(2) do not affect the taxability of either the initial sale of mobile telecommunications services or subsequent resale of such services, whether as sales of such services alone or as a part of a bundled product, if the Internet Tax Freedom Act would preclude a taxing jurisdiction from subjecting the charges of the sale of such services to a tax, charge, or fee, but this section provides no evidence of the intent of Congress with respect to the applicability of the Internet Tax Freedom Act to such charges; and

(3) do not apply to the determination of the taxing situs of air-ground radiotelephone service as defined in section 22.99 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 626.)

Editorial Notes

REFERENCES IN TEXT

Section 254 of the Communications Act of 1934, referred to in subsec. (b)(5), is classified to section 254 of Title 47, Telecommunications.

The Internet Tax Freedom Act, referred to in subsec. (c)(2), is title XI of Pub. L. 105-277, div. C, Oct. 21, 1998, 112 Stat. 2681-719, which is set out as a note under section 151 of Title 47, Telecommunications.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Pub. L. 106-252, §3, July 28, 2000, 114 Stat. 633, provided that:

“(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this Act [enacting this section and sections 117 to 126 of this title and provisions set out as a note under section 1 of this title] and the amendment made by this Act shall take effect on the date of the enactment of this Act [July 28, 2000].

“(b) **APPLICATION OF ACT.**—The amendment made by this Act [enacting this section and sections 117 to 126 of this title] shall apply only to customer bills issued after the first day of the first month beginning more than 2 years after the date of the enactment of this Act [July 28, 2000].”

§ 117. Sourcing rules

(a) **TREATMENT OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.**—Notwithstanding the law of any State or political subdivision of any State, mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider.

¹ So in original. Probably should be followed by “section”.

(b) JURISDICTION.—All charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider under sections 116 through 126 of this title are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunication services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 627.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 118. Limitations

Sections 116 through 126 of this title do not—

(1) provide authority to a taxing jurisdiction to impose a tax, charge, or fee that the laws of such jurisdiction do not authorize such jurisdiction to impose; or

(2) modify, impair, supersede, or authorize the modification, impairment, or supersession of the law of any taxing jurisdiction pertaining to taxation except as expressly provided in sections 116 through 126 of this title.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 627.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 119. Electronic databases for nationwide standard numeric jurisdictional codes

(a) ELECTRONIC DATABASE.—

(1) PROVISION OF DATABASE.—A State may provide an electronic database to a home service provider or, if a State does not provide such an electronic database to home service providers, then the designated database provider may provide an electronic database to a home service provider.

(2) FORMAT.—(A) Such electronic database, whether provided by the State or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, that, allowing for de minimis deviations, designates for each street address in the State, including to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code.

(B) Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions which are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

(C) The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission, or their successors. Each address shall be provided in standard postal format.

(b) NOTICE; UPDATES.—A State or designated database provider that provides or maintains an electronic database described in subsection (a) shall provide notice of the availability of the then current electronic database, and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in such State.

(c) USER HELD HARMLESS.—A home service provider using the data contained in an electronic database described in subsection (a) shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by a State or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter not later than 30 days after the end of such calendar quarter for each State that issues notice of the availability of an electronic database reflecting such changes under subsection (b).

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 627.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 120. Procedure if no electronic database provided

(a) SAFE HARBOR.—If neither a State nor designated database provider provides an electronic database under section 119, a home service provider shall be held harmless from any tax, charge, or fee liability in such State that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to section 121, the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one

specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with section 121 is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has—

(1) expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(2) implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

(3) used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

(b) **TERMINATION OF SAFE HARBOR.**—Subsection (a) applies to a home service provider that is in compliance with the requirements of subsection (a), with respect to a State for which an electronic database is not provided under section 119 until the later of—

(1) 18 months after the nationwide standard numeric code described in section 119(a) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

(2) 6 months after such State or a designated database provider in such State provides such database as prescribed in section 119(a).

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 628.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 121. Correction of erroneous data for place of primary use

(a)¹ **IN GENERAL.**—A taxing jurisdiction, or a State on behalf of any taxing jurisdiction or taxing jurisdictions within such State, may—

(1) determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use in section 124(8) and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination if—

(A) if the taxing jurisdiction making such determination is not a State, such taxing jurisdiction obtains the consent of all affected taxing jurisdictions within the State before giving such notice of determination; and

(B) before the taxing jurisdiction gives such notice of determination, the customer is given an opportunity to demonstrate in accordance with applicable State or local tax, charge, or fee administrative procedures that the address is the customer's place of primary use;

(2) determine that the assignment of a taxing jurisdiction by a home service provider under section 120 does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination if—

(A) if the taxing jurisdiction making such determination is not a State, such taxing jurisdiction obtains the consent of all affected taxing jurisdictions within the State before giving such notice of determination; and

(B) the home service provider is given an opportunity to demonstrate in accordance with applicable State or local tax, charge, or fee administrative procedures that the assignment reflects the correct taxing jurisdiction.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 629.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 122. Determination of place of primary use

(a) **PLACE OF PRIMARY USE.**—A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use (as defined in section 124). Subject to section 121, and if the home service provider's reliance on information provided by its customer is in good faith, a taxing jurisdiction shall—

(1) allow a home service provider to rely on the applicable residential or business street address supplied by the home service provider's customer; and

(2) not hold a home service provider liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge.

(b) **ADDRESS UNDER EXISTING AGREEMENTS.**—Except as provided in section 121, a taxing jurisdiction shall allow a home service provider to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect 2 years after the date of the enactment of the Mobile Telecommunications Sourcing Act as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted.

¹ So in original. No subsec. (b) was enacted.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 630.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Mobile Telecommunications Sourcing Act, referred to in subsec. (b), is the date of enactment of Pub. L. 106-252, which was approved July 28, 2000.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 123. Scope; special rules

(a) ACT DOES NOT SUPERSEDE CUSTOMER'S LIABILITY TO TAXING JURISDICTION.—Nothing in sections 116 through 126 modifies, impairs, supersedes, or authorizes the modification, impairment, or supersession of, any law allowing a taxing jurisdiction to collect a tax, charge, or fee from a customer that has failed to provide its place of primary use.

(b) ADDITIONAL TAXABLE CHARGES.—If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to such tax, charge, or fee from its books and records that are kept in the regular course of business.

(c) NONTAXABLE CHARGES.—If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 630.)

Editorial Notes

REFERENCES IN TEXT

Act, referred to in subsec. (a), probably means the Mobile Telecommunications Sourcing Act, Pub. L. 106-252, July 28, 2000, 114 Stat. 626, which enacted sections 116 to 126 of this title and provisions set out as notes under sections 1 and 116 of this title. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 124. Definitions

In sections 116 through 126 of this title:

(1) CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.—The term “charges for mobile telecommunications services” means any charge for, or associated with, the provision of commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) CUSTOMER.—

(A) IN GENERAL.—The term “customer” means—

(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

(ii) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service, but this clause applies only for the purpose of determining the place of primary use.

(B) The term “customer” does not include—

(i) a reseller of mobile telecommunications service; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(3) DESIGNATED DATABASE PROVIDER.—The term “designated database provider” means a corporation, association, or other entity representing all the political subdivisions of a State that is—

(A) responsible for providing an electronic database prescribed in section 119(a) if the State has not provided such electronic database; and

(B) approved by municipal and county associations or leagues of the State whose responsibility it would otherwise be to provide such database prescribed by sections 116 through 126 of this title.

(4) ENHANCED ZIP CODE.—The term “enhanced zip code” means a United States postal zip code of 9 or more digits.

(5) HOME SERVICE PROVIDER.—The term “home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(6) LICENSED SERVICE AREA.—The term “licensed service area” means the geographic area in which the home service provider is au-

thorized by law or contract to provide commercial mobile radio service to the customer.

(7) **MOBILE TELECOMMUNICATIONS SERVICE.**—The term “mobile telecommunications service” means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

(8) **PLACE OF PRIMARY USE.**—The term “place of primary use” means the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, which must be—

(A) the residential street address or the primary business street address of the customer; and

(B) within the licensed service area of the home service provider.

(9) **PREPAID TELEPHONE CALLING SERVICES.**—The term “prepaid telephone calling service” means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

(10) **RESELLER.**—The term “reseller”—

(A) means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

(B) does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider’s licensed service area.

(11) **SERVING CARRIER.**—The term “serving carrier” means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider’s or reseller’s licensed service area.

(12) **TAXING JURISDICTION.**—The term “taxing jurisdiction” means any of the several States, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 631.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 125. Nonseverability

If a court of competent jurisdiction enters a final judgment on the merits that—

(1) is based on Federal law;

(2) is no longer subject to appeal; and

(3) substantially limits or impairs the essential elements of sections 116 through 126 of this title,

then sections 116 through 126 of this title are invalid and have no legal effect as of the date of entry of such judgment.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 632.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

§ 126. No inference

(a) **INTERNET TAX FREEDOM ACT.**—Nothing in sections 116 through this section of this title shall be construed as bearing on Congressional intent in enacting the Internet Tax Freedom Act or to modify or supersede the operation of such Act.

(b) **TELECOMMUNICATIONS ACT OF 1996.**—Nothing in sections 116 through this section of this title shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 or the amendments made by such Act.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 632.)

Editorial Notes

REFERENCES IN TEXT

The Internet Tax Freedom Act, referred to in subsec. (a), is title XI of Pub. L. 105-277, div. C, Oct. 21, 1998, 112 Stat. 2681-719, which is set out as a note under section 151 of Title 47, Telecommunications.

The Telecommunications Act of 1996, referred to in subsec. (b), is Pub. L. 104-104, Feb. 8, 1996, 110 Stat. 56. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 609 of Title 47, Telecommunications, and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

CHAPTER 5—OFFICIAL TERRITORIAL PAPERS

Sec.

141. Collection, preparation and publication.

142. Appointment of experts.

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Editorial Notes

AMENDMENTS

1951—Chapter added by act Oct. 31, 1951, ch. 655, §12, 65 Stat. 713.