

“(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, if such income—

(i) is part of a series of substantially equal periodic payments (not less frequently than annually) 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.

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.

(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.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), 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.

EFFECTIVE DATE

Section 1(c) of Pub. L. 104-95 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.)

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

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

² So in original. Probably should be followed by “section”.

charged to customers for mobile telecommunication 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.)

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, Telegraphs, Telephones, and Radiotelegraphs.

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, Telegraphs, Telephones, and Radiotelegraphs.

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.

(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.)

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.)

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 ad-