4 U.S.C.A. § 106

Effective: [See Text Amendments]

United States Code Annotated Currentness
Title 4. Flag and Seal, Seat of Government, and the States (Refs & Annos)
 Ch 4. The States (Refs & Annos)

§ 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.

CREDIT(S)

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports


CROSS REFERENCES

Definitions, see 4 USCA § 110.

Exception of Indians, see 4 USCA § 109.

Exception of United States, its instrumentalities, and authorized purchases, see 4 USCA § 107.

Jurisdiction of United States over Federal areas unaffected, see 4 USCA § 108.

LIBRARY REFERENCES

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Taxation ☞ 939.

Key Number System Topic No. 371.

4 U.S.C.A. § 106

Corpus Juris Secundum

CJS Mines and Minerals § 373, License, Severance, and Production Taxes.

CJS Taxation § 1694, Power of States to Impose Tax.

RESEARCH REFERENCES

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46 ALR 224, Applicability of State License Tax Law to Property or Business of Individual on Land Owned by Federal Government.

Forms


NOTES OF DECISIONS

Generally 2
Areas subject to tax 7
Constitutionality 1
Failure to file return 8
Indian reservations 9

Jurisdiction of taxing authority 10
Law governing 4
Power of Congress 6
Purpose 3
Retroactive effect 5
Taxes within section 11
Time of tax liability 12

1. Constitutionality


Imposition of municipal income tax upon nonresident of city who worked for federal government at an establishment located within the city was not unconstitutional. City of Cincinnati v. Faig, Ohio Mun.1957, 145 N.E.2d 563, 77 Ohio Law Abs. 449, 3 O.O.2d 340. Municipal Corporations 956(1)

2. Generally


By the passage of this section Congress acknowledged that inherent in the privilege of working within a federal enclave, surrounded by an area under the control of a local government, is a benefit sufficient to support a local income tax. Ratliff v. Lexington-Fayette Urban County Government, Ky.1976, 540 S.W.2d 8, certiorari denied 97 S.Ct. 1113, 429 U.S. 1096, 51 L.Ed.2d 544. Municipal Corporations 966(1)

3. Purpose

Purpose of this section was to equalize liability for state income tax between officers and employees of the United States who reside within federal areas and those, otherwise identically situated, who reside outside a federal area and who became liable for state tax by the passage of the Public Salary Tax Act, Act Apr. 12, 1939, c. 59, 53 Stat. 574, and to equalize position between federal employees who were residents of federal enclaves over which the United States had been granted exclusive jurisdiction and those residing in federal areas over which the granting state had retained concurrent jurisdiction. U. S. v. Lewisburg Area School Dist., C.A.3 (Pa.) 1976, 539 F.2d 301. Taxation 3411

This section authorizing state taxation of income received in federal areas was passed for purpose of correcting anomalous situations which permitted some persons of same class to escape taxation, and in recognition of generosity of states which had granted to federal government exclusive jurisdiction over land within their respective territorial limits without reserving right of taxation. Kiker v. City of Philadelphia, Pa.1943, 31 A.2d 289, 346 Pa. 624, certiorari denied 64 S.Ct. 41, 320 U.S. 741, 88 L.Ed. 439. Taxation 3407

4. Law governing

State court must not only apply federal law in determining whether a tax is an "income tax" within meaning of the Buck Act, sections 105 to 110 of this title, but must also interpret this section in light of recognized congressional intent of including therein any state tax if it is levied, with respect to or measured by, net income, gross income, or gross receipts. General Dynamics Corp. v. Bullock, Tex.1976, 547 S.W.2d 255, certiorari denied 98 S.Ct. 717, 434 U.S. 1009, 54 L.Ed.2d 751. Taxation 3406

5. Retroactive effect

This section declaring that residence within a federal area or receipt of income for services performed in such area shall not relieve any person from liability for income tax levied by a duly constituted state taxing authority, and providing that this section is applicable only to income received after Dec. 31, 1940, contains nothing to indicate that Congress intended that incomes earned before that date should be exempt. City of Philadelphia v. Schaller, Pa.Sup.1942, 25 A.2d 406, 148 Pa.Sup. 276, certiorari denied 63 S.Ct. 43, 317 U.S. 649, 87 L.Ed. 522. Taxation 3425

This section must be accorded prospective operation. Burns v. State, Bureau of Revenue, Income Tax Division, N.M.1968, 439 P.2d 702, 79 N.M. 53, certiorari denied 89 S.Ct. 119, 393 U.S. 841, 21 L.Ed.2d 111. Taxation 3441

This section made steel company, which leased naval ordnance plant from federal government and operated it to make armor and deck plate on lump-sum basis, subject to state occupation tax, notwithstanding that contracts between company and government were made before this section became effective. Carnegie-Illinois Steel Corp. v. Alderson, W.Va.1945, 34 S.E.2d 737, 127 W.Va. 807, certiorari denied 66 S.Ct. 146, 326 U.S. 764, 90 L.Ed.
4 U.S.C.A. § 106

440. Licenses 19(3)

6. Power of Congress

A Philadelphia income tax ordinance was not inapplicable to New Jersey resident employed by federal government at Philadelphia Navy Yard on League Island on ground that Congress which by this section authorized state taxation of income in federal areas could not "waive" a federal employee's immunity from city and state taxes, since such employee had no "vested rights" in alleged immunity from taxation. Kiker v. City of Philadelphia, Pa.1943, 31 A.2d 289, 346 Pa. 624, certiorari denied 64 S.Ct. 41, 320 U.S. 741, 88 L.Ed. 439. Municipal Corporations 966(1)

7. Areas subject to tax

City occupation tax, Rev. Municipal Code § 53-241, by its terms, was applicable to persons employed within the city, and could not be imposed on employees of air force base within the city, even if its application was limited to city residents. U.S. v. City and County of Denver, D.C.Colo.1983, 573 F.Supp. 686. Taxation 2008

This section granted municipality power to levy and collect taxes on income earned by nonresidents employed on League Island, including full jurisdiction and power to levy and collect as though such area were not a federal area; for purposes of taxation it puts League Island within acknowledged jurisdiction of the Commonwealth, and also grants Commonwealth necessary legislative jurisdiction to serve a defendant according to provisions of long-arm statute, 42 Pa.C.S.A. §§ 8301-8311. City of Philadelphia v. Bullion, Pa.Cmwlth.1977, 368 A.2d 1375, 28 Pa.Cmwlth. 485, appeal dismissed 98 S.Ct. 384, 434 U.S. 914, 54 L.Ed.2d 271. Municipal Corporations 956(1); United States 3


Where person lived within corporate boundaries of City of Springfield, he was subject to city income tax, though he lived in a public housing project owned by United States and operated as a Federal Housing Area by Public Housing Authority. City of Springfield v. Kenney, Ohio App. 2 Dist.1951, 104 N.E.2d 65, 62 Ohio Law Abs. 123. Municipal Corporations 966(1)

The City of Louisville was entitled to collect occupational license tax computed on gross receipts from work done or business conducted in the City from persons employed at naval ordnance plant located within corporate limits of City on property owned by the United States, where Congress had made rescission of its exclusive jurisdiction of such Federal area to extent of permitting such taxes. Com'r's of Sinking Fund of City of Louisville v. Howard, Ky.1952, 248 S.W.2d 340. Licenses 5

8. Failure to file return

Where a civilian employee at the Philadelphia Naval Shipyard failed to file a return and pay tax on his wages earned at the shipyard within Philadelphia imposed by the city, the city had power to impose fines and penalties for failure to file the required tax returns and pay the tax at the office of the Department of Collections in Philadelphia. Application of Thompson, E.D.Pa.1957, 157 F.Supp. 93, affirmed 258 F.2d 320, certiorari denied 79 S.Ct. 317, 358 U.S. 931, 3 L.Ed.2d 303, rehearing denied 79 S.Ct. 579, 359 U.S. 921, 3 L.Ed.2d 584. Municipal Corporations 983

9. Indian reservations

4 U.S.C.A. § 106


10. Jurisdiction of taxing authority

As to income taxes, the United States, through sections 105 to 110 of this title, has receded jurisdiction to the states and other local taxing authorities. U.S. v. City and County of Denver, D.C.Colo.1983, 573 F.Supp. 686. Taxation  3411


Where state ceded to federal government an area within city's borders, nonresidents employed in area were subject to the city's income tax ordinance only to extent that federal government had receded taxing powers to Commonwealth and political subdivisions therein. City of Philadelphia v. Konopacki, Pa.Cmwlth.1976, 366 A.2d 608, 27 Pa.Cmwlth. 391. Municipal Corporations  966(1)

The quoted phrase within this section, "having jurisdiction to levy such a tax", did not exempt employee in Philadelphia Navy Yard from Philadelphia income tax ordinance because prior to enactment of this section, Philadelphia had no jurisdiction to impose such taxes, since quoted phrase refers to power of taxing authority to impose tax mentioned and not to its jurisdiction over the territory. Kiker v. City of Philadelphia, Pa.1943, 31 A.2d 289, 346 Pa. 624, certiorari denied 64 S.Ct. 41, 320 U.S. 741, 88 L.Ed. 439. Municipal Corporations  966(1)

Under this section providing that no person should be relieved from state taxation by reason of residing in federal area or deriving income from services performed or from transactions occurring therein, Indiana gross income tax was applicable to a foreign corporation's income derived from construction work upon land ceded to federal government as well as that derived from construction work performed upon land purchased by United States with respect to income after the effective date of said section, notwithstanding fact that state statute relieving property ceded to United States from taxation had not been repealed. State v. Pearson Const. Co., Ind.1957, 141 N.E.2d 448, 236 Ind. 602. Taxation  3411

11. Taxes within section

City of Louisville, Kentucky, was entitled to collect occupational license tax computed on gross receipts from work done or business conducted in city, from persons employed at naval ordnance plant located within corporate limits of city on property owned by United States, where Congress had made recession of its exclusive jurisdiction of such federal area to extent of permitting such taxes. Howard v. Com'r of Sinking Fund of City of Louisville, U.S.Ky.1953, 73 S.Ct. 465, 344 U.S. 624, 97 L.Ed. 617. Taxation  3609

The Buck Act, which precludes taxpayer from arguing that state or locality lacks jurisdiction to tax her because she resides in federal area or receives income from transactions or services in federal area, did not authorize Alabama county to impose privilege tax on federal judges for performing judicial duties within county, where the Buck Act provides specifically that it did not authorize levy or collection of any tax on or from the United States or any instrumentality thereof. Jefferson County v. Acker, C.A.11 ( Ala.) 1996, 92 F.3d 1561, vacated 117 S.Ct. 2429, 520 U.S. 1261, 138 L.Ed.2d 191, on remand 137 F.3d 1314. Licenses  5.1

School district occupation tax was an "income tax" for purposes of this section, and thus could be validly imposed on residents of federal enclave at the Lewisburg federal penitentiary, where tax was related to income in that it was based on a rough estimate of business income based on the average income of the various occupations in question,
but $30 occupation tax assessed on housewives could not be levied within the federal enclave since it was not computed with reference to income. U. S. v. Lewisburg Area School Dist., C.A.3 (Pa.) 1976, 539 F.2d 301. Licenses § 5.5

This section providing that state may levy an "income tax" in a federal enclave within the state to the same extent as if area were not a federal enclave did not authorize Louisiana to levy severance tax on oil and gas produced under lease to private corporation on land in Air Force base, since severance tax is not an "income tax." Mississippi River Fuel Corp. v. Cocreham, C.A.5 (La.) 1967, 382 F.2d 929, rehearing denied 390 F.2d 34, certiorari denied 88 S.Ct. 1264, 390 U.S. 1014, 20 L.Ed.2d 164, certiorari denied 88 S.Ct. 1264, 390 U.S. 1015, 20 L.Ed.2d 164. Licenses § 5; Mines And Minerals § 87

This section providing that no person shall be relieved from liability for any income tax by reason of his residing within a federal area or receiving income from transactions occurring or services performed in such area, authorizes a city to impose a tax on civilian employees of the United States Navy for the privilege of working in a naval ordnance plant in such city. Application of Thompson, E.D.Pa.1957, 157 F.Supp. 93, affirmed 258 F.2d 320, certiorari denied 79 S.Ct. 317, 358 U.S. 931, 3 L.Ed.2d 303, rehearing denied 79 S.Ct. 579, 359 U.S. 921, 3 L.Ed.2d 584. Municipal Corporations § 956(1)

Within the meaning of sections 105 to 110 of this title, Denver's occupation tax was levied with respect to net income, gross income, or gross receipts, since it was an employment or occupation tax imposed only on natural persons who earn income; furthermore, the tax was even "measured by" income in that it excludes from taxation any employee in Denver earning less than $250 per month. Rountree v. City and County of Denver, Colo.1979, 596 P.2d 739, 197 Colo. 497. Taxation § 3610

12. Time of tax liability

Provision of this section that no persons 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, services performed in such area cannot be read as permitting taxes in effect the year it was passed, but not any subsequent ones. Lung v. O'Chesky, N.M.1980, 617 P.2d 1317, 94 N.M. 802, appeal dismissed 101 S.Ct. 1475, 450 U.S. 961, 67 L.Ed.2d 610. Taxation § 3406

4 U.S.C.A. § 106, 4 USCA § 106
KEYCITE

C4 USCA s 106

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1. Constitutionality


2. Generally


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3. Purpose

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5. Retroactive effect

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6. Power of Congress


7. Areas subject to tax


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8. Failure to file return


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9. Indian reservations

10. Jurisdiction of taxing authority

11. Taxes within section
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   26 Mississippi River Fuel Corp. v. Cocreham, 382 F.2d 929, 931+ (5th Cir.(La.) Sep 13, 1967) (NO. 23402)
   29 Rountree v. City and County of Denver, 596 P.2d 739, 739+, 197 Colo. 497, 497+ (Colo. May 14, 1979) (NO. 27990)

12. Time of tax liability
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<table>
<thead>
<tr>
<th>Case</th>
<th>Citation</th>
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<tbody>
<tr>
<td>Patrick v. City of Frankfort, 539 S.W.2d 275, 275+ (Ky. May 28, 1976)</td>
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<td>Maynard &amp; Child, Inc. v. Shearer, 290 S.W.2d 790, 793 (Ky. Dec 02, 1955)</td>
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<tr>
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<td></td>
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<tr>
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<tr>
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<td></td>
</tr>
</tbody>
</table>

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111 CJS Mines and Minerals s 373, s 373. License, severance, and production taxes (2007)

112 CJS Taxation s 1694, s 1694. Power of states to impose tax (2007)

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Appellate Petitions, Motions and Filings


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**Statutes and Court Rules (U.S.A.)**

*C* 189  4 USCA s 107; s 107. Same; exception of United States, its instrumentalities, and authorized purchases [FN1]...

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§ 106. Same; income tax

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HISTORICAL AND STATUTORY NOTES

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