

at such times and in such installments as the parties may specify—

(A) an amount equal to the expenditures made by the Commissioner of Social Security pursuant to such agreement as payments to individuals on behalf of such State; and

(B) an administration fee to reimburse the administrative expenses incurred by the Commissioner of Social Security in making payments to individuals on behalf of the State.

(c) Special disposition of administration fees

Administration fees, upon collection, shall be credited to a special fund established in the Treasury of the United States for State recognition payments for certain World War II veterans. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this subchapter.

(Aug. 14, 1935, ch. 531, title VIII, §810A, as added Pub. L. 106-554, §1(a)(1) [title V, §518(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-73.)

§ 1011. Penalties for fraud

(a) In general

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in an application for benefits under this subchapter;

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining any right to the benefits;

(3) having knowledge of the occurrence of any event affecting—

(A) his or her initial or continued right to the benefits; or

(B) the initial or continued right to the benefits of any other individual in whose behalf he or she has applied for or is receiving the benefit,

conceals or fails to disclose the event with an intent fraudulently to secure the benefit either in a greater amount or quantity than is due or when no such benefit is authorized; or

(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts the benefit or any part thereof to a use other than for the use and benefit of the other individual,

shall be fined under title 18, imprisoned not more than 5 years, or both.

(b) Court order for restitution

(1) In general

Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) of this section, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) of this section in his or her capacity as the individual's representative payee appointed pursuant to section 1007(i) of this title.

(2) Related provisions

Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

(3) Stated reasons for not ordering restitution

If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

(4) Receipt of restitution payments

(A) In general

Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(B) Payment to the individual

In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this subchapter, subchapter II of this chapter, or subchapter XVI of this chapter by the individual.

(Aug. 14, 1935, ch. 531, title VIII, §811, as added Pub. L. 106-169, title II, §251(a), Dec. 14, 1999, 113 Stat. 1852; amended Pub. L. 108-203, title II, §209(b), Mar. 2, 2004, 118 Stat. 514.)

PRIOR PROVISIONS

For prior provisions, see note set out under section 1001 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-203 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “If a person or organization violates subsection (a) of this section in the person's or organization's role as, or in applying to become, a representative payee under section 1007 of this title on behalf of a qualified individual, and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to the qualified individual.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to violations occurring on or after Mar. 2, 2004, see section 209(d) of Pub. L. 108-203, set out as a note under section 408 of this title.

§ 1012. Definitions

In this subchapter:

(1) World War II veteran

The term “World War II veteran” means a person who—

(A) served during World War II—

(i) in the active military, naval, or air service of the United States during World War II; or

(ii) in the organized military forces of the Government of the Commonwealth of the Philippines, while the forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among the military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, in any case in which the service was rendered before December 31, 1946; and

(B) was discharged or released therefrom under conditions other than dishonorable—

(i) after service of 90 days or more; or

(ii) because of a disability or injury incurred or aggravated in the line of active duty.

(2) World War II

The term “World War II” means the period beginning on September 16, 1940, and ending on July 24, 1947.

(3) Supplemental security income benefit under subchapter XVI

The term “supplemental security income benefit under subchapter XVI”, except as otherwise provided, includes State supplementary payments which are paid by the Commissioner of Social Security pursuant to an agreement under section 1382e(a) of this title or section 212(b) of Public Law 93–66.

(4) Federal benefit rate under subchapter XVI

The term “Federal benefit rate under subchapter XVI of this chapter” means, with respect to any month, the amount of the supplemental security income cash benefit (not including any State supplementary payment which is paid by the Commissioner of Social Security pursuant to an agreement under section 1382e(a) of this title or section 212(b) of Public Law 93–66) payable under subchapter XVI of this chapter for the month to an eligible individual with no income.

(5) United States

The term “United States” means, notwithstanding section 1301(a)(1) of this title, only the 50 States, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

(6) Benefit income

The term “benefit income” means any recurring payment received by a qualified individual as an annuity, pension, retirement, or disability benefit (including any veterans’ compensation or pension, workmen’s compensation payment, old-age, survivors, or disability insurance benefit, railroad retirement annuity or pension, and unemployment insurance benefit), but only if a similar payment was received by the individual from the same

(or a related) source during the 12-month period preceding the month in which the individual files an application for benefits under this subchapter.

(Aug. 14, 1935, ch. 531, title VIII, §812, as added Pub. L. 106–169, title II, §251(a), Dec. 14, 1999, 113 Stat. 1853.)

REFERENCES IN TEXT

Section 212(b) of Public Law 93–66, referred to in pars. (3) and (4), is section 212(b) of Pub. L. 93–66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

§ 1013. Appropriations

There are hereby appropriated for fiscal year 2000 and subsequent fiscal years, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this subchapter.

(Aug. 14, 1935, ch. 531, title VIII, §813, as added Pub. L. 106–169, title II, §251(a), Dec. 14, 1999, 113 Stat. 1854.)

SUBCHAPTER IX—EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING

AMENDMENTS

1954—Act Aug. 5, 1954, ch. 657, §2, 68 Stat. 668, in amending subchapter generally substituted subchapter heading “EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING” for “TAX ON EMPLOYMENT OF EIGHT OR MORE”.

PRIOR LAW; TAX ON EMPLOYERS OF EIGHT OR MORE

Former subchapter IX, sections 1101–1103, 1105–1110, act Aug. 14, 1935, ch. 531, title IX, §§901–903, 905–910, 49 Stat. 639–644, related to taxes on employers of eight or more. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, Internal Revenue Code of 1939, provided that all laws and parts of laws codified into the I.R.C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I.R.C. 1939 were generally repealed by section 7851 of Title 26, Internal Revenue Code of 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I.R.C. 1954, respecting rules in effect upon enactment of I.R.C. 1954. The I.R.C. 1954 was redesignated I.R.C. 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. Said prior law sections were formerly and are now covered by certain sections in Title 26, I.R.C. 1939 and I.R.C. 1986, respectively, as follows:

Former sections	I.R.C. 1939	I.R.C. 1986
1101	1600	3301.
1102	1601(a)	3302.
1103	1603	3304.
1105	1604, 1605, 1610	3501, 6011(a), 6065, 6071, 6081(a), 6091(b)(1), (2), 6106, 6152(a)(3), (b), 6161(a)(1), 6313, 6601(a), (f)(1).
1106	1606	3305.
1107 (as amended act June 25, 1938, ch. 680, §13(a), 52 Stat. 1110).	1607	3306, 7701(a)(1).
1108	1609	7805(a), (c).
1109	1601(b), (c)	3302.
1110	1602	3303.

REPAIR OF 1938 HURRICANE DAMAGE

Act Aug. 11, 1939, ch. 719, §1, 53 Stat. 1420, provided that no special security taxes should be collected for work done prior to Jan. 1, 1940, in cleaning up debris and damage caused by the 1938 hurricane.