

§ 359. Penalties

(a) Failure to make report or furnish information; false or fraudulent statement or claim

Any officer or agent of an employer, or any employee representative, or any employee acting in his own behalf, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this chapter, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purposes of this chapter, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or claim for the purpose of causing benefits or other payment to be made or not to be made under this chapter, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

(b) Agreement by employee to bear employer's contribution

Any agreement by an employee to pay all or any portion of the contribution required of his employer under this chapter shall be void, and it shall be unlawful for any employer, or officer or agent of an employer, to make, require, or permit any employee to bear all or any portion of such contribution. Any employer, or officer or agent of an employer, who violates any provision of this subsection shall be punished for each such violation by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

(c) Punishments not specifically provided

Any person who violates any provision of this chapter, the punishment for which is not otherwise provided, shall be punished for each such violation by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

(d) Payment and disposition of fines or penalties

All fines and penalties imposed by a court pursuant to this chapter shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the account.

(June 25, 1938, ch. 680, § 9, 52 Stat. 1103.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 25, 1938, ch. 680, 52 Stat. 1094, which enacted this chapter and amended sections 503 and 1104 and former section 1107 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 367 of this title and Tables.

§ 360. Railroad unemployment insurance account

(a) Funds constituting account; availability for benefits or refunds

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 1104 of title 42 an account to be known as the railroad unemployment insurance account. This account shall consist of (i) such part of all contributions collected pursuant to section 358 of this title as is in excess of 0.65 per

centum of the total compensation on which such contributions are based, together with all interest collected pursuant to section 358(g)¹ of this title; (ii) all amounts transferred or paid into the account pursuant to section 363 or section 364 of this title; (iii) all additional amounts appropriated to the account in accordance with any provision of this chapter or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 1104(e) of title 42; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 361 of this title; (vii) all fines or penalties collected pursuant to the provisions of this chapter; and (viii) all amounts credited thereto pursuant to section 352(f) or section 362(g) of this title. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this chapter, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund.

(b) Payment of benefits or refunds

All moneys in the account shall be used solely for the payment of the benefits and refunds provided for by this chapter. The Board shall, from time to time, certify to the Secretary of the Treasury the name and address of each person or company entitled to receive benefits or a refund payment under this chapter, the amount of such payment, and the time at which it shall be made. Prior to audit or settlement by the Government Accountability Office, the Secretary of the Treasury, through the Fiscal Service of the Treasury Department, shall make payments from the account directly to such person or company of the amount of benefits or refund so certified by the Board: *Provided, however*, That if the Board shall so request, the Secretary of the Treasury, through the Fiscal Service of the Treasury Department, shall transmit benefits payments to the Board for distribution by it through employment offices or in such other manner as the Board deems proper.

(c) Annual report to Congress

The Board shall include in its annual report to Congress a statement with respect to the status and operation of the account.

(d) Transfer and retransfer of funds; interest

Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this chapter, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the

¹ See References in Text note below.

balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at a rate for each fiscal year equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 358(a) of this title, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

(June 25, 1938, ch. 680, § 10 (less (e)-(g)), 52 Stat. 1104; June 20, 1939, ch. 227, § 13, 53 Stat. 848; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; June 23, 1948, ch. 608, § 7, 62 Stat. 578; Pub. L. 86-28, pt. III, § 308(a), May 19, 1959, 73 Stat. 32; Pub. L. 88-133, title III, § 305, Oct. 5, 1963, 77 Stat. 223; Pub. L. 89-700, title II, § 205, Oct. 30, 1966, 80 Stat. 1087; Pub. L. 90-257, title II, § 205, Feb. 15, 1968, 82 Stat. 24; Pub. L. 93-445, title IV, § 403, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-92, title I, § 1(i), Aug. 9, 1975, 89 Stat. 464; Pub. L. 98-76, title III, § 302, Aug. 12, 1983, 97 Stat. 432; Pub. L. 99-107, § 4, Sept. 30, 1985, 99 Stat. 479; Pub. L. 99-155, § 2(c), Nov. 14, 1985, 99 Stat. 814; Pub. L. 99-181, § 3, Dec. 13, 1985, 99 Stat. 1172; Pub. L. 99-189, § 3, Dec. 18, 1985, 99 Stat. 1184; Pub. L. 99-272, title XIII, § 13302, Apr. 7, 1986, 100 Stat. 327; Pub. L. 100-647, title VII, § 7103(b)(1), Nov. 10, 1988, 102 Stat. 3770; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

Section 358(g) of this title, referred to in subsec. (a), was redesignated section 358(j) of this title by Pub. L. 100-647, title VII, § 7102(d)(1), Nov. 10, 1988, 102 Stat. 3769.

This chapter, referred to in subssecs. (a), (b), and (d), was in the original "this Act", meaning act June 25, 1938, ch. 680, 52 Stat. 1094, which enacted this chapter and amended sections 503 and 1104 and former section 1107 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 367 of this title and Tables.

CODIFICATION

Section 10(e)-(g) of act June 25, 1938, amended section 1104 of Title 42, The Public Health and Welfare.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1988—Subsec. (a). Pub. L. 100-647 substituted "0.65" for "0.5".

1986—Subsec. (d). Pub. L. 99-272 struck out at end "No transfer shall be made under this subsection from Railroad Retirement Account after December 19, 1985, and no such transfer shall be made on or before December

19, 1985, for purposes of paying benefits and refunds due after such date."

1985—Subsec. (d). Pub. L. 99-189 substituted "December 19, 1985" for "December 18, 1985" wherever appearing.

Pub. L. 99-181 substituted "December 18, 1985" for "December 14, 1985" wherever appearing.

Pub. L. 99-155 substituted "December 14, 1985" for "November 14, 1985" wherever appearing.

Pub. L. 99-107 substituted "November 14, 1985" for "September 30, 1985" wherever appearing.

1983—Subsec. (d). Pub. L. 98-76 inserted provisions that no transfer shall be made under this subsection from Railroad Retirement Account after September 30, 1985, and no such transfer shall be made on or before September 30, 1985, for purposes of paying benefits and refunds due after such date.

1975—Subsec. (a)(i). Pub. L. 94-92, § 1(i)(1), substituted "0.5" for "0.25".

Subsec. (a)(ii). Pub. L. 94-92, § 1(i)(2), struck out "and pursuant to subsection (h)[e] of this section". Congress probably intended to strike out internal reference to subsec. (e) of this section in view of repeal of subsection by section 403 of Pub. L. 93-445 and it being last subsection of section.

1974—Subsec. (e). Pub. L. 93-445 repealed subsec. (e) which was added by Pub. L. 90-257 as subsec. (h) and redesignated (e) for purposes of codification, and which provided for annual adjustment of account and transfer of funds from Railroad Retirement Account.

1968—Subsec. (a)(ii). Pub. L. 90-257 inserted reference to amounts transferred or paid into account pursuant to subsec. (e) of this section.

Subsec. (e). Pub. L. 90-257 added subsec. (e) which was subsec. (h) in original and was redesignated (e) for purposes of codification.

1966—Subsec. (a). Pub. L. 89-700 substituted "0.25 per centum" for "0.2 per centum".

1963—Subsec. (d). Pub. L. 88-133 substituted "a rate for each fiscal year equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum" for "the rate of 3 per centum per annum."

1959—Subsec. (d). Pub. L. 86-28 substituted provisions authorizing Board to request transfer and retransfer of funds for provisions which directed Secretary of the Treasury to advance not more than \$25,000,000 for purpose of paying benefits.

1948—Subsec. (a)(i). Act June 23, 1948, changed computation of insurance account.

1939—Subsec. (a). Act June 20, 1939, substituted "(f)" for "(g)".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable with respect to compensation paid in months beginning after Sept. 30, 1988, see section 7103(c) of Pub. L. 100-647, set out as a note under section 358 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-92 effective with respect to compensation paid for services rendered after Dec. 31, 1975; and effective Aug. 9, 1975, respectively, see section 2 of Pub. L. 94-92, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 305 of Pub. L. 88-133 provided that the amendment made by that section is effective after June 30, 1964.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 308(b) of Pub. L. 86-28 provided that: "The amendment made by this section [amending this sec-

tion] shall take effect on the date of enactment of this Act [May 19, 1959].”

TRANSFER OF FUNCTIONS

“Fiscal Service” substituted for “Division of Disbursements” in two places in subsec. (b) on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Treasury Department. See section 306 of Title 31, Money and Finance.

§ 361. Railroad unemployment insurance administration fund

(a) Maintenance of account; amounts constituting fund

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act [42 U.S.C. 1104] an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 358 of this title as equals 0.65 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this chapter. Such additional amounts are authorized to be appropriated.

(b) Authorization of appropriations; advance of sums; repayment

In addition to the other moneys herein provided for expenses necessary or incidental to administering this chapter, there is appropriated to the fund such amount as the Secretary of the Treasury and the Board shall jointly estimate to have been collected or to be collectible with respect to the calendar years 1936, 1937, 1938, and 1939, from employers subject to this chapter, under title IX of the Social Security Act, less such amount as the Secretary of the Treasury and the Board shall jointly estimate will be appropriated or has been appropriated to States or Territories pursuant to the Act of Congress approved August 24, 1937 (Public, Numbered 353, Seventy-fifth Congress), as proceeds of taxes paid by employers pursuant to title IX of the Social Security Act.

Until the amount appropriated by this subsection is credited to the fund, the Secretary of the Treasury is directed to advance to the credit of the fund such sums, but not more than \$2,000,000, as the Board requests for the purpose of financing the costs of administering this chapter. Such advance shall be repaid from the fund at such time after the amount appropriated by this subsection is credited to the fund as the Board by agreement with the Secretary of the Treasury may determine, but not later than January 1, 1940.

(c) Availability for administrative expenses

Notwithstanding any other provision of law, all moneys at any time credited to the fund are permanently appropriated to the Board to be

continuously available to the Board without further appropriation for any expenses necessary or incidental to administering this chapter, including personal services in the District of Columbia and elsewhere; travel expenses, including expenses of attendance at meetings when authorized by the Board; actual transportation expenses and not to exceed \$10 per diem to cover subsistence and other expenses while in attendance at and en route to and from the place to which he is invited, to any person other than an employee of the Federal Government who may, from time to time, be invited to the city of Washington or elsewhere for conference or advisory purposes in furthering the work of the Board; when found by the Board to be in the interest of the Government, not exceeding 3 per centum, in any fiscal year, of the amounts credited during such year to the fund, for engaging persons or organizations, by contract or otherwise, for any special technical or professional services, determined necessary by the Board, including but not restricted to accounting, actuarial, statistical, and reporting services, without regard to section 6101 of title 41 and the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; services; advertising, postage, telephone, telegraph, teletype, and other communication services and tolls; supplies; reproducing, photographing, and all other equipment, office appliances, and labor-saving devices, including devices for internal communication and conveyance; purchase and exchange, operation, maintenance and repair of motor-propelled passenger-carrying vehicles to be used only for official purposes in the District of Columbia and in the field; printing and binding; purchase and exchange of law books, books of reference, and directories; periodicals, newspapers and press clippings, in such amounts as the Board deems necessary, without regard to the provisions of section 192 of the Revised Statutes; manuscripts and special reports; membership fees or dues in organizations which issue publications to members only, or to members at a lower price than to others, payment for which may be made in advance; rentals, including garages, in the District of Columbia or elsewhere; alterations and repairs; if found by the Board to be necessary to expedite the certification to the Board by the Director of the Office of Personnel Management of persons eligible to be employed by the Board, and to the extent that the Board finds such expedition necessary, meeting the expenses of the Director of the Office of Personnel Management in holding examinations for testing the fitness of applicants for admission to the classified service for employment by the Board pursuant to the second paragraph of section 362(l) of this title, but not to exceed the additional expenses found by the Board to have been incurred by reason of the holding of such examinations; and miscellaneous items, including those for public instruction and information deemed necessary by the Board: *Provided*, That section 6101 of title 41 shall not be construed to apply to any purchase or procurement of supplies or services by the Board from moneys in the fund when the aggregate amount involved does not exceed \$300. Determinations of the