

any benefit paid under section 3(h), 4(e), or 4(h) of the Railroad Retirement Act of 1974 [sections 231b(h), 231(e), (h) of this title].

“(2) TRANSFERS.—The amounts appropriated by paragraph (1) shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any such quarterly payment shall be made on the first day of such quarter and shall take into account benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

“(3) REVENUE INCREASES FROM TAX ON SUPPLEMENTAL ANNUITIES NOT INCLUDED.—Paragraph (1) shall not apply to tax liabilities attributable to supplemental annuities paid under section 2(b) of the Railroad Retirement Act of 1974 [section 231a(b) of this title].”

TAX USED TO REPAY LOANS MADE TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Section 232 of Pub. L. 98-76, as amended by Pub. L. 99-272, title XIII, §13301(c), Apr. 7, 1986, 100 Stat. 326; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-647, title VII, §7106(c)(6), (7), Nov. 10, 1988, 102 Stat. 3774; Pub. L. 101-508, title XI, §11704(a)(40), Nov. 5, 1990, 104 Stat. 1388-520, provided that:

“(a) TRANSFER TO RAILROAD RETIREMENT ACCOUNT.—

“(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Railroad Retirement Account an amount equal to the additional railroad unemployment taxes received in the Treasury.

“(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

“(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is not attributable to the surtax rate under section 7106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 [Pub. L. 100-647, set out as a note under section 3321 of Title 26, Internal Revenue Code] shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

“(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 7106(b) of such Act shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985.

“(b) TRANSFERS MADE MONTHLY.—Transfers under subsection (a) shall be made at least monthly on the basis of estimates made by the Secretary of the Treasury of the amount of the additional railroad unemployment taxes received in the Treasury. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or were less than the amounts required to be transferred.

“(c) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOANS REPAYED.—If—

“(1) the amount described in subparagraph (A) or (B) of subsection (a)(2) which (but for this subsection) would be transferred to the Railroad Retirement Account under subsection (a), exceeds—

“(2) the outstanding balance of railroad unemployment loans (as of the time of such transfer) against which the amount described in such subparagraph may be credited under such subparagraph, such transfer (to the extent it exceeds such outstanding balance) shall be made to the Railroad Unemployment Account.

“(d) DEFINITIONS.—For purposes of this section—

“(1) ADDITIONAL RAILROAD UNEMPLOYMENT TAXES.—The term ‘additional railroad unemployment taxes’

means the taxes imposed by chapter 23A of the Internal Revenue Code of 1986 [26 U.S.C. 3321 et seq.].

“(2) RAILROAD UNEMPLOYMENT ACCOUNT.—The term ‘Railroad Unemployment Account’ means the railroad unemployment insurance account in the unemployment trust fund established pursuant to section 904 of the Social Security Act [42 U.S.C. 1104].

“(3) RAILROAD UNEMPLOYMENT LOANS.—The term ‘railroad unemployment loans’ means transfers under section 10(d) of the Railroad Unemployment Insurance Act [45 U.S.C. 360(d)] from the Railroad Retirement Account to the Railroad Unemployment Account. The outstanding balance of such loans shall include any interest required to be paid under such section 10(d).”

REIMBURSEMENT OF RAILROAD RETIREMENT ACT ACCOUNTS; “UNNEGOTIATED BENEFIT CHECKS” DEFINED

Section 417(c) of Pub. L. 98-76 provided that:

“(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to each Account established in the Treasury for the payment of benefits under the Railroad Retirement Act of 1974 [this subchapter] in the month following the month in which this section is enacted [Aug. 1983] and in each of the next succeeding months until May, 1985, such sums as may be necessary to reimburse such Accounts in the proportionate amount of all checks (including interest thereon) attributable to such Accounts which the Secretary and the Board jointly determine to be unnegotiated benefit checks, to the extent provided in advance in appropriation Acts. After any amounts authorized by this subsection have been transferred to an Account or Accounts with respect to any benefit check, the provisions of paragraphs (3) and (4) of section 15(i) of the Railroad Retirement Act of 1974 (as added by subsection (a) of this section) [subsec. (i)(3), (4) of this section] shall be applicable to such check.

“(2) As used in paragraph (1) of this subsection, the term ‘unnegotiated benefit checks’ means checks for benefits under the Railroad Retirement Act of 1974 [this subchapter] or under the Railroad Retirement Act of 1937 [subchapter III of this chapter] which are issued prior to May 1, 1985, which remain unnegotiated after the sixth month following the date on which they were issued, and with respect to which no transfers have previously been made in accordance with the first sentence of such paragraph.”

TREATMENT OF CERTAIN CREDITS AS AMOUNTS COVERED INTO THE TREASURY

Pub. L. 98-21, title I, §123(b)(5), Apr. 20, 1983, 97 Stat. 89, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974 [subsec. (a) of this section], amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1986 [26 U.S.C. 3510(e)] shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code [26 U.S.C. 3201(a)].”

ANALYSIS OF OPTIONS THAT WILL ASSURE LONG-TERM FINANCIAL INTEGRITY OF THE RAILROAD RETIREMENT SYSTEM: REPORT AND RECOMMENDATIONS TO CONGRESS

Section 1126(a) of Pub. L. 97-35 directed President, not later than Oct. 1, 1982, to analyze options that would assure long-term financial integrity of railroad retirement system and report to Congress results of such analysis, together with recommendations with respect to such options and such comments as may have been submitted by representatives of railroad labor and management.

§ 231n-1. Social Security Equivalent Benefit Account

(a) Establishment

There is hereby created an account in the Treasury of the United States to be known as

the “Social Security Equivalent Benefit Account”.

(b) Transfers, etc., to Social Security Equivalent Benefit Account

(1) There is hereby appropriated to the Social Security Equivalent Benefit Account for each fiscal year, beginning with the fiscal year beginning October 1, 1984, an amount equal to the sum of the following amounts:

(A) Amounts covered into the Treasury (minus refunds) during such fiscal year under sections 3201(a), 3211(a)(1), and 3221(a) of the Railroad Retirement Tax Act [26 U.S.C. 3201(a), 3211(a)(1), 3221(a)].

(B) The amount which (but for this section) would have been transferred to the Railroad Retirement Account under section 121(e) of the Social Security Amendments of 1983 to the extent that the amount which would have been so transferred is attributable to taxation of social security equivalent benefits.

Amounts appropriated to the Railroad Retirement Account shall be appropriately reduced to take into account the amounts appropriated under this paragraph to the Social Security Equivalent Benefit Account.

(2) On and after October 1, 1984, any amount which (but for this section) would have been transferred to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 231f(c) of this title shall be transferred to the Social Security Equivalent Benefit Account. On and after October 1, 1984, no transfer shall be made to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 231f(c) of this title.

(3) To the extent that the authorization for appropriation contained in section 231n(b) of this title is attributable to the cost of social security equivalent benefits, on and after October 1, 1984, any reference in such section to the Railroad Retirement Account shall be treated as a reference to the Social Security Equivalent Benefit Account.

(4) Amounts appropriated or transferred to the Social Security Equivalent Benefit Account under this section shall be credited or transferred to such Account at the same time and in the same manner as such amounts would have been credited or transferred to the Railroad Retirement Account but for this section.

(c) Availability and transfer of funds

(1) Except as otherwise provided in this section, amounts in the Social Security Equivalent Benefit Account shall be available only for purposes of paying social security equivalent benefits under this subchapter and to provide for the administrative expenses of the Board allocable to social security equivalent benefits. The Secretary shall from time to time transfer to the disbursing agent under section 231f(b)(4) of this title amounts necessary to pay those benefits.

(2) On and after October 1, 1984, any transfer which (but for this paragraph) would be required to be made from the Railroad Retirement Account under paragraph (2) or (4) of section 231f(c) of this title shall be made from the Social Security Equivalent Benefit Account.

(d) Transfers to Social Security Equivalent Benefit Account and National Railroad Retirement Investment Trust

(1) Whenever the Board finds that the balance in the Social Security Equivalent Benefit Account will be insufficient to pay social security equivalent benefits which it estimates are due in any month, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Social Security Equivalent Benefit Account such moneys as the Board estimates will be necessary for the payment of such benefits, and the Secretary shall make such transfer.

(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust or the Railroad Retirement Account, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust or the Railroad Retirement Board only to pay benefits under this subchapter or to purchase obligations of the United States (either directly or through a commingled account consisting only of such obligations) that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this subchapter or to purchase such additional obligations.

(e) Applicability of section 231n

The provisions of subsections (e), (f), and (g) of section 231n of this title are hereby made applicable to the Social Security Equivalent Benefit Account.

(f) References to Railroad Retirement Account deemed references to Social Security Equivalent Benefit Account; “social security equivalent benefits” defined

(1) For purposes of making payments of social security equivalent benefits, references in the¹ subchapter to the Railroad Retirement Account shall be treated as references to the Social Security Equivalent Benefit Account.

(2) For purposes of this section, the term “social security equivalent benefits” means benefits payable under this subchapter which are of a kind taken into account in determining the amount of transfers made under section 231f(c)(2) of this title.

(Aug. 29, 1935, ch. 812, §15A, as added Pub. L. 98-76, title V, §501(a), Aug. 12, 1983, 97 Stat. 438; amended Pub. L. 107-90, title I, §107(c), Dec. 21, 2001, 115 Stat. 888; Pub. L. 108-203, title IV, §426(e), Mar. 2, 2004, 118 Stat. 538.)

REFERENCES IN TEXT

Section 121(e) of the Social Security Amendments of 1983, referred to in subsec. (b)(1)(B), is section 121(e) of

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

Pub. L. 98-21, title I, Apr. 20, 1983, 97 Stat. 83, which is set out as a note under section 401 of Title 42, The Public Health and Welfare.

AMENDMENTS

2004—Subsec. (d)(2). Pub. L. 108-203 inserted “or the Railroad Retirement Account” before “, and the Secretary shall make”, “or the Railroad Retirement Board” before “only to pay benefits”, “(either directly or through a commingled account consisting only of such obligations)” after “obligations of the United States”, and “or to purchase such additional obligations” before period at end.

2001—Subsec. (c)(1). Pub. L. 107-90, §107(c)(2), inserted at end “The Secretary shall from time to time transfer to the disbursing agent under section 231f(b)(4) of this title amounts necessary to pay those benefits.”

Subsec. (d)(1). Pub. L. 107-90, §107(c)(3), struck out at end: “Whenever later in such month there is a transfer to the Social Security Equivalent Benefit Account under paragraph (2) or (4) of section 231f(c) of this title, the amount so transferred shall be immediately retransferred to the Railroad Retirement Account. The amount retransferred under the preceding sentence shall not exceed the amount of any outstanding transfers under this paragraph from the Railroad Retirement Account plus such additional amounts determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such outstanding transfers.”

Subsec. (d)(2). Pub. L. 107-90, §107(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Whenever the Board determines that—

“(A) amounts in the Railroad Retirement Account will not be sufficient to pay the annuities which it estimates are due, or will become due, from such Account, and

“(B) the transfer under this paragraph will not jeopardize the present or future payment of social security equivalent benefits,

the Board shall request the Secretary of the Treasury to transfer from the Social Security Equivalent Benefit Account to the Railroad Retirement Account such moneys as the Board estimates will be necessary for the payment of such annuities, and the Secretary shall make such transfer. No transfer under this paragraph shall be required to be repaid.”

EFFECTIVE DATE

Section 501(b)(1) of Pub. L. 98-76 provided that: “The amendment made by this section [enacting this section] shall take effect on October 1, 1984.”

TREATMENT OF TIER 1 PORTION OF TAX IMPOSED WITH RESPECT TO COMPENSATION PAID BEFORE 1985

Section 501(b)(2) of Pub. L. 98-76, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) The tier 1 portion of the tax imposed by section 3201, 3211, or 3221 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 3201, 3211, 3221], as the case may be, with respect to compensation paid before 1985 shall be treated as described in subparagraph (A) of section 15A(b)(1) of the Railroad Retirement Act of 1974 [subsec. (b)(1)(A) of this section].

“(B) For purposes of subparagraph (A), the tier 1 portion of any tax is so much of such tax as is determined by reference to the rates of taxes imposed by chapter 21 of the Internal Revenue Code of 1986 [26 U.S.C. 3101 et seq.]”

§ 231o. Private pensions

Nothing in this subchapter shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities paid to such employees under this subchapter, nor shall this subchapter be taken as terminating any trust heretofore created for the payment of such pen-

sions or gratuities. The annuity, except a supplemental annuity under section 231a(b) of this title, of an individual shall not be reduced on account of any pension or gratuity paid by an employer to such individual.

(Aug. 29, 1935, ch. 812, §16, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1349.)

§ 231p. Free transportation

It shall not be unlawful for carriers by railroad subject to this subchapter to furnish free transportation to individuals receiving annuities under this subchapter in the same manner as such transportation is furnished to employees in their service.

(Aug. 29, 1935, ch. 812, §17, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1349.)

§ 231q. Crediting service under Social Security Act

(1) Except as provided in subdivision (2), the term “employment” as defined in section 216 of the Social Security Act [42 U.S.C. 416] shall not include service performed by an individual as an employee as defined in section 231(b) of this title.

(2) For the purpose of determining (i) monthly insurance benefits under the Social Security Act [42 U.S.C. 301 et seq.] to an employee who will have completed less than ten years of service (or less than five years of service, all of which accrues after December 31, 1995) and to others deriving from him or her during his or her life and (ii) monthly insurance benefits and lump-sum death benefits under such Act with respect to the death of an employee who (A) will have completed less than ten years of service (or less than five years of service, all of which accrues after December 31, 1995) or (B) will have completed ten or more years of service (or five or more years of service, all of which accrues after December 31, 1995) but will not have had a current connection with the railroad industry at the time of his death, and for the purposes of section 203 and section 216(i) of that Act [42 U.S.C. 403, 416(i)], section 210(a)(9) of the Social Security Act [42 U.S.C. 410(a)(9)] and subdivision (1) of this section shall not operate to exclude from “employment” under the Social Security Act service which would otherwise be included in such “employment” but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this subdivision to service as an employee, all service as defined in section 231(d) of this title shall be deemed to have been performed within the United States.

(Aug. 29, 1935, ch. 812, §18, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1349; amended Pub. L. 97-35, title XI, §1125, Aug. 13, 1981, 95 Stat. 639; Pub. L. 107-90, title I, §103(g), Dec. 21, 2001, 115 Stat. 881.)