

section 106 of Pub. L. 96-254 by Pub. L. 97-468, title II, §231, Jan. 14, 1983, 96 Stat. 2543.

#### TRANSFER OF FUNCTIONS

“Fiscal Service” substituted for “Division of Disbursements” in subsec. (b)(4) on authority of section 1(a)(1) of 1940 Reorg. Plan No. III, 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.

#### LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

Pub. L. 110-161, div. G, title IV, Dec. 26, 2007, 121 Stat. 2206, provided in part: “That funds made available under the heading in this Act [the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, Pub. L. 110-161, div. G, see Tables for classification], or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.”

Pub. L. 105-277, div. A, §101(f) [title IV], Oct. 21, 1998, 112 Stat. 2681-337, 2681-381, provided in part: “That none of the funds made available under this heading in this Act [probably means the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999, Pub. L. 105-277, div. A, §101(f), Oct. 21, 1998, 112 Stat. 2681-337, see Tables for classification], or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-78, title IV, Nov. 13, 1997, 111 Stat. 1512.

Pub. L. 104-208, div. A, title I, §101(e) [title IV], Sept. 30, 1996, 110 Stat. 3009-233, 3009-268.

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### DELEGATION OF REPORTING AUTHORITY

Memorandum of President of the United States, Feb. 9, 2005, 70 F.R. 7631, provided:

Memorandum for the Chairman of the Railroad Retirement Board

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 7(b)(6) of the Railroad Retirement Act [of 1974, 45 U.S.C. 231f(b)(6)] and section 12(1) of the Railroad Unemployment Insurance Act [45 U.S.C. 362(l)] to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### § 231f-1. Annual actuarial report

As part of the annual report required under section 231u(a) of this title, the Railroad Retirement Board shall submit to the Congress a report on the actuarial status of the railroad retirement system under various economic and employment assumptions. Such report shall in-

clude any recommendation for financing changes which might be advisable, including—

(1) any adjustment the Railroad Retirement Board recommends regarding the rates of taxes imposed by sections 3201(b), 3211(a)(2), and 3221(b) of the Internal Revenue Code of 1986 [26 U.S.C. 3201(b), 3211(a)(2), 3221(b)], and

(2) if there are sufficient reserves in the Railroad Retirement Account, whether—

(A) the rates of such taxes should be reduced, or

(B) any part of the tax imposed by section 3221(b) of such Code should be diverted to the Railroad Unemployment Insurance Account to aid in the repayment of its debt to the Railroad Retirement Account.

(Pub. L. 98-76, title V, §502, Aug. 12, 1983, 97 Stat. 440; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104-66, title II, §2221(a), Dec. 21, 1995, 109 Stat. 733.)

#### CODIFICATION

Section was enacted as part of the Railroad Retirement Solvency Act of 1983, and not as part of the Railroad Retirement Act of 1974 which comprises this subchapter.

#### AMENDMENTS

1995—Pub. L. 104-66 which directed the amendment of this section by substituting “As part of the annual report required under section 231u(a) of this title” for “On or before July 1, 1985, and each calendar year thereafter”, was executed by making the substitution for “On or before July 1 of 1985, and of each calendar year thereafter”, to reflect the probable intent of Congress.

1986—Par. (1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

#### § 231g. Court jurisdiction

Decisions of the Board determining the rights or liabilities of any person under this subchapter shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] except that the time within which proceedings for the review of a decision with respect to an annuity, supplemental annuity, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant.

(Aug. 29, 1935, ch. 812, §8, 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. 1343.)

#### REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in text, is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

#### § 231h. Returns of compensation; conclusiveness

Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns

of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the day on which return of the compensation was required to be made.

(Aug. 29, 1935, ch. 812, §9, 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. 1343.)

### § 231i. Erroneous payments

#### (a) Recovery

If the Board finds that at any time more than the correct amount of annuities or other benefits has been paid to any individual under this subchapter, or payment has been made to an individual not entitled thereto, recovery by adjustment in subsequent payments to which such individual, or any other individual on the basis of the same compensation, wages, or self-employment income, is entitled under this subchapter, or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by setoff or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this subchapter, or the Railroad Unemployment Insurance Act, to the estate of such individual or to any person on the basis of the compensation, wages, or self-employment income of such individual. The Board shall have the authority to recover from any payment which would be made to an individual by the Board under section 231f(b)(2) of this title the amount of annuity payments made to such individual which are erroneous because of such individual's entitlement to monthly insurance benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.].

#### (b) Adjustments

Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities or other benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

#### (c) Decision not to recover

There shall be no recovery in any case in which more than the correct amount of annuities or other benefits has been paid under this subchapter to an individual or payment has been made to an individual not entitled thereto who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this subchapter or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] or would be against equity or good conscience.

#### (d) Liability of officers

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section.

(Aug. 29, 1935, ch. 812, §10, 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. 1344; amended Pub. L. 97-35, title XI, §1123, Aug. 13, 1981, 95 Stat. 638.)

#### REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in subsecs. (a) and (c), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 inserted provisions authorizing Board to recover from any payment which would be made to an individual by Board under section 231f(b)(2) of this title amount of annuity payments made to such individual which are erroneous because of such individual's entitlement to monthly insurance benefits under title II of the Social Security Act.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Jan. 1, 1975, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

### § 231j. Waiver of annuities

Any person awarded an annuity under this subchapter may decline to accept all or any part of such annuity by a waiver signed and filed with the Board. Such a waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period during which such waiver was in effect. Such a waiver will have no effect on entitlement to, or the amount of, any other annuity or benefit.

(Aug. 29, 1935, ch. 812, §11, 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. 1344.)

### § 231k. Incompetence

(a) Every individual receiving or claiming benefits, or to whom any right or privilege is ex-