

with respect to each such Trust Fund within one year after the date of the transfer made to such Trust Fund under clause (i), as determined appropriate by such Secretary from data which becomes available to him after the date of the transfer under clause (i). Within 30 days after any such revision, the Secretary of the Treasury shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of Health and Human Services certifies as necessary to take into account such revision."

§ 430. Adjustment of contribution and benefit base

(a) Determination and publication by Commissioner in Federal Register subsequent to cost-of-living benefit increase; effective date

Whenever the Commissioner of Social Security pursuant to section 415(i) of this title increases benefits effective with the December following a cost-of-living computation quarter, the Commissioner shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) or (c) which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) Determination of amount

The amount of such contribution and benefit base shall (subject to subsection (c)) be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) \$60,600, and

(2) the ratio of (A) the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the national average wage index (as so defined) for 1992,

with such product, if not a multiple of \$300, being rounded to the next higher multiple of \$300 where such product is a multiple of \$150 but not of \$300 and to the nearest multiple of \$300 in any other case.

(c) Amount of base for period prior to initial cost-of-living benefit increase

For purposes of this section, and for purposes of determining wages and self-employment income under sections 409, 411, 413, and 415 of this title and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1986, (1) the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 415(i) of this title becomes effective shall be \$13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section, and (2) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning)—

(A) in 1978 shall be \$17,700,

(B) in 1979 shall be \$22,900,

(C) in 1980 shall be \$25,900, and

(D) in 1981 shall be \$29,700.

For purposes of determining under subsection (b) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection.

(d) Determinations for calendar years after 1976 for purposes of retirement benefit plans

Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 1322(b)(3)(B) of title 29, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change (except that, for purposes of subsection (b) of such section 430 of this title as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to \$45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 409(k)(1) of this title), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 430 of this title is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992).

(Aug. 14, 1935, ch. 531, title II, § 230, as added Pub. L. 92-336, title II, § 202(b)(1), July 1, 1972, 86 Stat. 416; amended Pub. L. 92-603, title I, § 144(a)(4), Oct. 30, 1972, 86 Stat. 1370; Pub. L. 93-66, title II, § 203(c), July 9, 1973, 87 Stat. 153; Pub. L. 93-233, §§ 3(j), 5(c), Dec. 31, 1973, 87 Stat. 952, 954; Pub. L. 94-202, § 8(h), Jan. 2, 1976, 89 Stat. 1139; Pub. L. 95-216, title I, § 103(a)-(c)(1), title III, § 353(e), Dec. 20, 1977, 91 Stat. 1513, 1514, 1554; Pub. L. 97-34, title VII, § 741(d)(1), Aug. 13, 1981, 95 Stat. 347; Pub. L. 98-21, title I, § 111(a)(5), Apr. 20, 1983, 97 Stat. 72; Pub. L. 98-76, title II, §§ 211(d), 225(a)(4), Aug. 12, 1983, 97 Stat. 419, 425; Pub. L. 98-369, div. B, title VI, § 2663(a)(18), July 18, 1984, 98 Stat. 1165; Pub. L. 101-239, title X, § 10208(b)(1)(A), (B), (5), (d)(2)(A)(i), Dec. 19, 1989, 103 Stat. 2477, 2478, 2480; Pub. L. 103-296, title I, § 107(a)(4), title III, § 321(b)(2), (c)(6)(K), (g)(1)(A), (B), Aug. 15, 1994, 108 Stat. 1478, 1537, 1538, 1542.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

"Subsequent to the law which added this section", referred to in subsec. (c), means subsequent to the enactment of Pub. L. 92-336, which was approved July 1, 1972.

The enactment of the Social Security Amendments of 1977, referred to in subsec. (d), means the enactment of Pub. L. 95-216, which was approved Dec. 20, 1977.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” and “the Commissioner shall” for “he shall”.

Subsec. (b)(1), (2). Pub. L. 103-296, §321(g)(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) of this section is made, and

“(2) the ratio of (A) the deemed average total wages (as defined in section 409(k)(1) of this title) for the calendar year before the calendar year in which the determination under subsection (a) of this section is made to (B) the deemed average total wages (as so defined) for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a) of this section.”.

Subsec. (b)(2)(A), (B). Pub. L. 103-296, §321(b)(2), made technical correction to directory language of Pub. L. 101-239, §10208(b)(1). See 1989 Amendment note below.

Subsec. (c). Pub. L. 103-296, §321(c)(6)(K), substituted “1986” for “1954” after “Code of”.

Subsec. (d). Pub. L. 103-296, §321(g)(1)(B), at end substituted parenthetical provisions beginning with “(except that” and ending with “reference to 1992.” for former parenthetical provisions which read as follows: “(except that, for purposes of subsection (b)(2)(A) of this section as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 409(k)(1) of this title) for such calendar year.”

1989—Subsec. (b)(2)(A). Pub. L. 101-239, §10208(b)(1)(A), as amended by Pub. L. 103-296, §321(b)(2), substituted “the deemed average total wages (as defined in section 409(k)(1) of this title)” for “the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate”.

Pub. L. 101-239, §10208(d)(2)(A)(i), substituted “409(a)(1)” for “409(a)”.

Subsec. (b)(2)(B). Pub. L. 101-239, §10208(b)(1)(B), as amended by Pub. L. 103-296, §321(b)(2), substituted “the deemed average total wages (as so defined)” for “the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate”.

Subsec. (d). Pub. L. 101-239, §10208(b)(5), substituted “change (except that, for purposes of subsection (b)(2)(A) of this section as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 409(k)(1) of this title) for such calendar year)” for “change”.

1984—Subsec. (c). Pub. L. 98-369, in last sentence which was repealed by Pub. L. 98-76, substituted “3(a) or 3(f)(3)” for “3(a) or (3)(f)(3)” in the original, which had been translated as “section 231b(a) or (f)(3) of title 45”.

1983—Subsec. (a). Pub. L. 98-21 substituted “December” for “June”.

Subsec. (c). Pub. L. 98-76, §225(a)(4), struck out provision that for purposes of determining employee and employer tax liability under sections 3201(a) and 3221(a) of the Internal Revenue Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211(a) of such Code which resulted from the application of the 12.75 percent rate specified therein, and for purposes of computing average monthly compensation under section 231b(j) of title

45, except with respect to annuity amounts determined under section 231b(a) or (f)(3) of title 45, clause (2) and the preceding sentence of this subsection shall be disregarded.

Pub. L. 98-76, §211(d), temporarily substituted “12.75 percent” for “11.75 percent”. See Effective and Termination Dates of 1983 Amendments note below.

1981—Subsec. (c). Pub. L. 97-34 substituted in last sentence “employee and employer” for “employer”, “sections 3201(a) and 3221(a)” for “section 3221(a)”, and “11.75” for “9.5”.

1977—Subsec. (a). Pub. L. 95-216, §103(a)(1), substituted “determined under subsection (b) or (c)” for “determined under subsection (b)”.

Subsec. (b). Pub. L. 95-216, §103(a)(2), in provisions preceding par. (1), substituted “shall (subject to subsection (c)) be the amount” for “shall be the amount”.

Subsec. (b)(1). Pub. L. 95-216, §353(e)(2), substituted “determination under subsection (a) of this section is made” for “determination under subsection (a) of this section with respect to such particular calendar year was made”.

Subsec. (b)(2). Pub. L. 95-216, §353(e)(3), substituted “(A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year in which the determination under subsection (a) of this section is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before” for “(A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar years was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding”.

Subsec. (b). Pub. L. 95-216, §353(e)(1), in provisions following par. (2), struck out directive that, for purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year), in the case of determinations made under subsection (a) of this section prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

Subsec. (c). Pub. L. 95-216, §103(b), designated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.

Subsec. (d). Pub. L. 95-216, §103(c)(1), added subsec. (d).

1976—Subsec. (b). Pub. L. 94-202 substituted “wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year” for “taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year” and “made to” for “made to the latest of” in cl. (A) of par. (2), substituted “wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding” for “taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973 or the first calendar quarter of” in cl. (B) of par. (2), and inserted, following par. (2), provision directing that the average wages for the calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that calendar year.

1973—Subsec. (a). Pub. L. 93-233, §3(j)(1), substituted “with the June” for “with the first month of the calendar year” and struck out “(along with the publication of such benefit increase as required by section 415(i)(2)(D) of this title)” after “such quarter occurs” and “(unless such increase in benefits is prevented from becoming effective by section 415(i)(2)(E) of this title)” after “shall be effective”, respectively.

Subsec. (c). Pub. L. 93-233, §§3(j)(2), 5(c), substituted “the June” for “the first month” and “\$13,200” for “\$12,600”, respectively.

Pub. L. 93-66 substituted “\$12,600” for “\$12,000”.
1972—Subsec. (b)(2)(A). Pub. L. 92-603 substituted “of” for “or”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Pub. L. 103-296, title III, §321(b)(2), Aug. 15, 1994, 108 Stat. 1537, provided that the amendment made by that section is effective as if included in section 10208(b)(1) of Pub. L. 101-239.

Amendment by section 321(g)(1)(A), (B) of Pub. L. 103-296 effective with respect to the determination of the contribution and benefit base for years after 1994, see section 321(g)(3)(A) of Pub. L. 103-296, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title X, §10208(c), Dec. 19, 1989, 103 Stat. 2478, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section and sections 403, 409, 413, 415, and 424a of this title] shall apply with respect to the computation of average total wage amounts (under the amended provisions) for calendar years after 1990.

“(2) TRANSITIONAL RULE.—For purposes of determining the contribution and benefit base for 1990, 1991, and 1992 under section 230(b) of the Social Security Act [42 U.S.C. 430(b)] (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977 [Pub. L. 95-216, approved Dec. 20, 1977])—

“(A) the average of total wages for 1988 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which has been determined to the average of total wages for 1987,

“(B) the average of total wages for 1989 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which would have been determined to be the average of total wages for 1988 without regard to subparagraph (A), and

“(C) the average of total wages reported to the Secretary of the Treasury for 1990 shall be deemed to be equal to the product of—

“(i) the SSA average wage index (as defined in section 215(i)(1)(G) of the Social Security Act [42 U.S.C. 415(i)(1)(G)] and promulgated by the Secretary) for 1989, and

“(ii) the quotient obtained by dividing—

“(I) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitations of section 209(a)(1) of the Social Security Act [42 U.S.C. 409(a)(1)] and by including deferred compensation amounts, within the meaning of section 209(k)(2) of such Act as added by this section) reported to the Secretary of the Treasury or his delegate for 1990, by

“(II) the average of total wages (as so defined and computed without regard to the limitations specified in such section 209(a)(1) and by excluding deferred compensation amounts within the meaning of such section 209(k)(2)) reported to the Secretary of the Treasury or his delegate for 1989.

“(3) DETERMINATION OF CONTRIBUTION AND BENEFIT BASE FOR 1993.—For purposes of determining the contribution and benefit base for 1993 under section 230(b) of the Social Security Act (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977), the average of total wages for 1990 shall be determined without regard to subparagraph (C) of paragraph (2).

“(4) REVISED DETERMINATION UNDER SECTION 230 OF THE SOCIAL SECURITY ACT.—As soon as possible after the en-

actment of this Act [Dec. 19, 1989], the Secretary of Health and Human Services shall revise and publish, in accordance with the provisions of this Act [Pub. L. 101-239, see Tables for classification] and the amendments made thereby, the contribution and benefit base under section 230 of the Social Security Act with respect to remuneration paid after 1989 and taxable years beginning after calendar year 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Amendment by section 211(d) of Pub. L. 98-76 applicable to compensation paid for services rendered after Dec. 31, 1983, and before Jan. 1, 1985, see section 212 of Pub. L. 98-76, set out as a note under section 3201 of Title 26, Internal Revenue Code.

Amendment by section 225(a)(4) of Pub. L. 98-76 applicable to remuneration paid after Dec. 31, 1984, see section 227(a) of Pub. L. 98-76, set out as a note under section 3201 of Title 26.

Amendment by Pub. L. 98-21 applicable with respect to cost-of-living increases determined under section 415(i) of this title for years after 1982, see section 111(a)(8) of Pub. L. 98-21, set out as an Effective Date of 1983 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to compensation paid for services rendered after Sept. 30, 1981, see section 741(e) of Pub. L. 97-34, set out as a note under section 3201 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 103(a), (b) of Pub. L. 95-216 applicable with respect to remunerations paid or received, and taxable years beginning after, 1977, see section 104 of Pub. L. 95-216, set out as a note under section 1401 of Title 26, Internal Revenue Code.

Pub. L. 95-216, title I, §103(c)(2), Dec. 20, 1977, 91 Stat. 1514, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to plan terminations occurring after the date of the enactment of this Act [Dec. 20, 1977].”

Amendment by section 353(e) of Pub. L. 95-216 effective Jan. 1, 1979, see section 353(g) of Pub. L. 95-216, set out as a note under section 418 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 effective in like manner as if such amendment had been included in title II of Pub. L. 92-336, see section 144(b) of Pub. L. 92-603, set out as a note under section 403 of this title.

SOCIAL SECURITY CONTRIBUTION AND BENEFIT BASE

2019—By notice of the Commissioner of Social Security, Oct. 24, 2018, 83 F.R. 53702, it was determined and announced that the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2019 is \$132,900.

2018—By notice of the Commissioner of Social Security, Dec. 15, 2017, 82 F.R. 59937, it was determined and

terminated and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1991 is \$53,400.

1990—By notice of the Secretary of Health and Human Services, Oct. 26, 1989, 54 F.R. 45803, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1990 is \$50,400.

1989—By notice of the Secretary of Health and Human Services, Oct. 27, 1988, 53 F.R. 43932, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1989 is \$48,000.

1988—By notice of the Secretary of Health and Human Services, Oct. 19, 1987, 52 F.R. 41672, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1988 is \$45,000.

1987—By notice of the Secretary of Health and Human Services, Oct. 31, 1986, 51 F.R. 40256, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1987 is \$43,800.

1986—By notice of the Secretary of Health and Human Services, Oct. 29, 1985, 50 F.R. 45559, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1986 is \$42,000.

1985—By notice of the Secretary of Health and Human Services, Oct. 29, 1984, 49 F.R. 43775, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1985 is \$39,600.

1983—By notice of the Secretary of Health and Human Services, Nov. 4, 1982, 47 F.R. 51003, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1983 is \$35,700.

1982—By notice of the Secretary of Health and Human Services, Oct. 30, 1981, 46 F.R. 53791, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1982 is \$32,400.

1978—By notice of the Secretary of Health, Education, and Welfare, Oct. 31, 1977, 42 F.R. 57754, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1978 is \$17,700.

1977—By notice of the Secretary of Health, Education, and Welfare, Oct. 7, 1976, 41 F.R. 44878, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1977 is \$16,500.

1976—By notice of the Secretary of Health, Education, and Welfare, Oct. 22, 1975, 40 F.R. 50556, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base with respect to remuneration paid in, and taxable years beginning in, 1976 is \$15,300.

COST-OF-LIVING INCREASE IN BENEFITS

For purposes of subsec. (a) of this section, the increase in benefits provided by section 2 of Pub. L.

93-233, revising benefits table of section 415(a) of this title and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93-233, set out as a note under section 415 of this title.

§ 431. Benefits for certain individuals interned by United States during World War II

(a) "Internee" defined

For the purposes of this section the term "internee" means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry.

(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period; and

(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period.

(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon internment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum