

**§ 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 the<sup>1</sup> 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;

<sup>1</sup> So in original. Probably should be "this".

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.)

### Editorial Notes

#### 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 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.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE

Pub. L. 98-76, title V, §501(b)(1), Aug. 12, 1983, 97 Stat. 440, 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

Pub. L. 98-76, title V, §501(b)(2), Aug. 12, 1983, 97 Stat. 440, 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 pensions 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