

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

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.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Social Security Act, referred to in par. (2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) 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

2001—Par. (2). Pub. L. 107-90 inserted “(or less than five years of service, all of which accrues after December 31, 1995)” after “ten years of service” in two places and inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten or more years of service”.

1981—Par. (2). Pub. L. 97-35 inserted “and section 216(i)” after “203”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Jan. 1, 1975, see section 1129(b)(2) of Pub. L. 97-35, set out as a note under section 231 of this title.

### § 231r. Automatic benefit eligibility requirement adjustments

#### (a) Reduced benefits

If title II of the Social Security Act [42 U.S.C. 401 et seq.] is amended at any time after December 31, 1974, to reduce the eligibility requirements for old-age insurance benefits, disability insurance benefits, wife’s insurance benefits payable to a wife, husband’s insurance benefits, child’s insurance benefits payable to a child of a deceased individual, widow’s insurance benefits payable to a widow, widower’s insurance benefits, mother’s insurance benefits payable to a widow, or parent’s insurance benefits, such reduced eligibility requirements shall be applicable, in accordance with regulations prescribed by the Board, to individuals, spouses, or survivors, as the case may be, under section 231a of this title to the extent that such reduced eligibility requirements would provide such individuals, spouses, or survivors with entitlement to annuities under such section 231a of this title to which they would not be entitled except for such reduced eligibility requirements: *Provided, however*, That no annuity shall be paid to any person pursuant to the provisions of this subsection if

that person does not satisfy an eligibility requirement imposed by section 231a of this title of a kind not imposed by the Social Security Act [42 U.S.C. 301 et seq.] on December 31, 1974, or an eligibility requirement imposed by section 231a of this title of a kind which was imposed by the Social Security Act on December 31, 1974, but which was not reduced by the amendment to that Act: *Provided further*, That the annuity amounts to which such individuals, spouses, or survivors will be entitled under this subchapter by reason of the provisions of this subsection shall be only such amounts as are determined under the provisions of section 231b(a), 231c(a), or 231c(f), respectively, of this title.

#### (b) Additional eligible beneficiaries

If title II of the Social Security Act [42 U.S.C. 401 et seq.] is amended at any time after December 31, 1974, to provide monthly insurance benefits under that Act to a class of beneficiaries not entitled to such benefits thereunder prior to January 1, 1975, every person who is a member of such class of beneficiaries shall be entitled to annuities under section 231a of this title, in accordance with regulations prescribed by the Board, in an amount equal to the amount of the monthly insurance benefit to which such person would have been entitled under the Social Security Act [42 U.S.C. 301 et seq.] if service as an employee after December 31, 1936, had been included in the term “employment” as defined in that Act.

#### (c) Reduced conditions of entitlement; expanded benefits

If section 226 [42 U.S.C. 426] or title XVIII [42 U.S.C. 1395 et seq.] of the Social Security Act is amended at any time after December 31, 1974, to reduce the conditions of entitlement to, or to expand the nature of, the benefits payable thereunder, or if health care benefits in addition to, or in lieu of, the benefits payable under such section 226 or such title XVIII are provided by any provision of law which becomes effective at any time after December 31, 1974, such reductions in the conditions of entitlement to benefits, such expanded benefits, or such additional, or substituted, health care benefits shall be available to every employee (as defined in this subchapter), and those deriving from him, in the same manner, and to the same extent, as if his service as an employee after December 31, 1936, had been included in the term “employment” as defined in the Social Security Act [42 U.S.C. 301 et seq.]. The Board shall have the same authority, in accordance with regulations prescribed by it, to determine the rights of employees who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995), and of those deriving from such employees, to benefits provided by reason of the provisions of this subsection as the Secretary of Health and Human Services has with respect to individuals insured under the Social Security Act.

#### (d) Limitations

Notwithstanding the provisions of subsections (a), (b), and (c) of this section—

(1) No annuity or other benefit shall be payable to any person on the basis of the com-