

Public Law 89-212

September 29, 1965
[H. R. 10874]

AN ACT

To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to eliminate certain provisions which reduce spouses' annuities, to provide coverage for tips, to increase the base on which railroad retirement benefits and taxes are computed, and to change the railroad retirement tax rates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Retirement Act of 1937 and Railroad Retirement Tax Act, amendments.

SPOUSES' ANNUITIES

65 Stat. 683.

SECTION 1. Subsection (e) of section 2 of the Railroad Retirement Act of 1937 (45 U.S.C. 228b(e)) is amended by changing the colon before the last proviso to a period and by striking out all that follows down through the period at the end of such subsection.

COVERAGE OF TIPS

68A Stat. 431.
26 USC 3202.

Ante, p. 384.

Post, p. 859.

SEC. 2. (a) (1) Subsection (a) of section 3202 of the Internal Revenue Code of 1954 (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new sentence: "An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20."

(2) Such section 3202 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR TIPS.—

"(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

Post, p. 861.

"(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

Quarterly estimates; deductions.

"(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

“(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

Ante, p. 384.

“(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

“(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

“(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.”

Post, p. 861.

(b) (1) The second sentence of subsection (e) (1) of section 3231 of such Code (relating to definition of compensation for purposes of the Railroad Retirement Tax Act) is amended by inserting “(except as is provided under paragraph (3))” after “tips”.

68A Stat. 437.
26 USC 3231.

(2) Subsection (e) of such section 3231 is further amended by adding at the end thereof the following new paragraph:

“(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term ‘compensation’ also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.”

(3) Such section 3231 is further amended by adding at the end thereof the following new subsection:

“(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.”

(c) Section 3402(k) of such Code (relating to income tax collected at source on tips) is amended (1) by inserting “or section 3202(c)(2)” after “section 3102(c)(2)” and (2) by inserting “or section 3202(a)” after “section 3102(a)”.

Ante, p. 384.

(d) (1) Section 6053(a) of such Code (relating to reports of tips by employees) is amended by inserting “or which are compensation (as defined in section 3231(e))” after “or section 3401(a)”.

(2) Section 6053(b) of such Code (relating to statements furnished by employers) is amended (A) by inserting “or section 3201 (as the case may be)” after “section 3101”, and (B) by inserting “or section 3202 (as the case may be)” after “section 3102”.

(e) Section 6652(c) of such Code (relating to failure to report tips) is amended (1) by inserting “or which are compensation (as defined in section 3231(e))” after “which are wages (as defined in section 3121(a))”, and (2) by inserting “or section 3201 (as the case may be)” after “section 3101”.

Ante, p. 385.

50 Stat. 309.
45 USC 228a.

(f) (1) Subsection (h) of section 1 of the Railroad Retirement Act of 1937 is amended (A) by inserting "(1)" after "(h)", (B) by inserting in the second sentence thereof "(except as is provided under paragraph (2))" after "tips", and (C) by adding at the end thereof the following new paragraphs:

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month."

Ante, p. 384.

INCREASE IN BASE FOR BENEFIT COMPUTATION PURPOSES

77 Stat. 219.
45 USC 228c.

SEC. 3. (a) Subsection (a) of section 3 of the Railroad Retirement Act of 1937 is amended by striking out "the next \$300" and inserting in lieu thereof the following: "the remainder up to a total of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

68A Stat. 417.
26 USC 3121.
60 Stat. 728.

(b) The second sentence of subsection (c) of such section 3 is amended by inserting before ", shall be recognized" the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended".

73 Stat. 27;
77 Stat. 220.
45 USC 228e.

(c) Subsection (f) (2) of section 5 of such Act is amended by inserting after "so amended" where it appears the second time in the first parenthetical phrase after clause (vi) the following: "and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended".

65 Stat. 689.

(d) Subsection (1) (9) of section 5 of such Act is amended—

(1) by striking out "and" where it appears the fourth time and inserting in lieu thereof a comma;

(2) by inserting after "so amended" where it appears the second time the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended";

(3) by striking out "\$6,600" both times it appears in such subsection and inserting in lieu thereof "an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954"; and

Ante, p. 400.

(4) by striking out "\$450" where it appears the second time and inserting in lieu thereof "(i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater,"

68A Stat. 417.
26 USC 3121.

(e) Subsection (1) (10) of section 5 of such Act is amended by striking out "\$450" and inserting in lieu thereof "(i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

60 Stat. 734;
77 Stat. 220.
45 USC 228e.

INCREASE IN BASE FOR TAX PURPOSES

SEC. 4. Sections 3201, 3202, 3211, and 3221 of the Internal Revenue Code of 1954 (relating to taxes under the Railroad Retirement Tax Act) are each amended by inserting after the phrase "or \$450 for any calendar month after the month in which this provision was so amended", wherever such phrase appears in such sections, the following: "and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended".

77 Stat. 221.
26 USC 3201,
3202, 3211, 3221.

CHANGES IN TAX RATES

SEC. 5. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

73 Stat. 28.

"(1) 6 $\frac{1}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after September 30, 1965,

"(2) 6 $\frac{1}{2}$ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965,

"(3) 6 $\frac{3}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,

"(4) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967, and

"(5) 7 $\frac{1}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968."

(b) Section 3211 of such Code (relating to rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) 12 $\frac{1}{2}$ percent of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1965,

"(2) 13 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1965,

"(3) 13 $\frac{1}{2}$ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

"(4) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

"(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968."

73 Stat. 29,
26 USC 3221.

(c) Section 3221(a) of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1965,

"(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

"(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

"(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

"(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968."

EFFECTIVE DATES

SEC. 6. The amendments made by sections 1 and 3 of this Act shall take effect with respect to annuities accruing and deaths occurring in months after the month in which this Act is enacted, and shall apply also to annuities paid in lump sums equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937, as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums: *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in the amount of annuities which become payable by reason of section 1 of this Act. The amendments made by section 2 of this Act shall apply only with respect to tips received after 1965. The amendments made by section 4 of this Act shall apply only with respect to calendar months after the month in which this Act is enacted. The amendments made by section 5 of this Act shall apply only with respect to compensation paid for services rendered after September 30, 1965.

65 Stat. 683,
45 USC 228b.

Approved September 29, 1965.