

Public Law 94-547
94th Congress

An Act

To amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes.

Oct. 18, 1976
[H.R. 14041]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204(a) of Public Law 93-445 is amended—

Railroad
Retirement Act of
1974,
amendment.
Annuity amounts.
45 USC 231 note.
45 USC 231b.

(1) By striking out paragraph (1) and inserting in lieu thereof the following:

“(1) that portion of the individual’s annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual’s annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937 or (B), if less in a case where such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity under section 2(a) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such individual would have received for the month of January 1975 if this Act had not been enacted: *Provided, however,* That such annuity amount shall be subject to reduction in accordance with the provisions of section 3(m) of the Railroad Retirement Act of 1974 in the same manner as other annuity amounts provided under section 3(a) of the Railroad Retirement Act of 1974;” and

45 USC 228c.

45 USC 228c.

(2) By inserting “no greater than” after “paragraph shall be” in the proviso to paragraph (2).

(b) Section 204 of Public Law 93-445 is further amended by adding at the end thereof the following new subsection:

45 USC 231 note.

“(d) The annuity amount provided an individual by paragraph (1) of this subsection as increased from time to time shall be deemed to be the primary insurance amount of such individual for purposes of computing the annuity of the spouse of such individual under section 4(a) of the Railroad Retirement Act of 1974.”

45 USC 231c.

(c) Section 206 of Public Law 93-445 is amended by striking out paragraph (1) and inserting in lieu thereof the following:

45 USC 231 note.

“(1) that portion of the spouse’s annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse’s annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937 or (B), if less in a case where such spouse is not entitled to an annuity amount provided by paragraph (3) of this section, the amount of the annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such spouse would

have received for the month of January 1975 if this Act had not been enacted: *Provided, however*, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i) of the Railroad Retirement Act of 1974;”.

45 USC 402.

45 USC 231c.

Effective date.

45 USC 231 note.

(d) The amendments made by this section shall be effective January 1, 1975: *Provided, however*, That the increases in annuities effective June 1, 1975, and June 1, 1976, shall be in the amount which would have been provided if this Act had not been enacted.

Survivor annuities.

45 USC 231c.

SEC. 2. (a) Section 4(g) of the Railroad Retirement Act of 1974 is amended—

(1) By striking out “subsections (a) and (b) of this section” each time it appears therein and inserting in lieu thereof “subsections (a), (b), and (c) of this section”; and

45 USC 231a.

(2) By inserting immediately after “*Provided, however*,” the following: “That if a widow or widower of a deceased employee is entitled to an annuity under section 2(a) (1) of this Act and if either such widow or widower or such deceased employee will have completed ten years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a) (1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d) (1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i) (2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a) (1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d) (1) of this Act began to accrue: *Provided further*,”.

45 USC 231d.

45 USC 231b.

(b) Section 4 of such Act is further amended by striking out subsection (h) and all that appears therein and inserting in lieu thereof the following:

“(h) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act of December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to

which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old age insurance benefit or disability insurance benefit under the Social Security Act, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section as to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act: *Provided, however,* That, if a widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) to an annuity amount under subdivision (1) or (2) of subsection (e) of this section in the month preceding the employee's death, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section and the preceding provisions of this subsection as of the date such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue to equal (B) the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reductions on account of age) in the month preceding the employee's death."

(c) The amendments made by this section shall be effective with respect to annuities accruing for months after the month in which this Act is enacted: *Provided, however,* That the amendments made by subsection (b) of this section shall not operate to decrease any annuity amounts awarded under section 4(h) of the Railroad Retirement Act of 1974 prior to the date on which these amendments become effective.

SEC. 3. (a) Section 15(c) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentences: "Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 2(b) of this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement

42 USC 402.

45 USC 231a.

42 USC 1305.

Effective date.
45 USC 231c
note.

45 USC 231c.

45 USC 231n.

Transfer of
moneys.

Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.”

Effective date.
45 USC 231n
note.
45 USC 231.

(b) The amendment made by this section shall be effective on the enactment date of this Act.

SEC. 4. (a) Section 1(h)(6) of the Railroad Retirement Act of 1974 is amended by striking out the word “and” after paragraph (iv), by changing the period at the end of paragraph (v) to a semicolon, and by adding the following new paragraphs after paragraph (v):

“(vi) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability; and

“(vii) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.”

26 USC 3231.

(b) Section 3231(e) of the Internal Revenue Code of 1954 is amended by striking out the second sentence and inserting in lieu thereof the following: “Such term does not include (i) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability, (ii) tips (except as is provided under paragraph (3)), (iii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201, or (iv) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.”

(c) (1) The amendments made by subsection (a) of this section shall be effective January 1, 1975.

(2) The amendments made by subsection (b) of this section shall apply with respect to taxable years ending after December 31, 1953: *Provided, however*, That any taxes paid under the Railroad Retirement Tax Act prior to the date on which this Act is enacted shall not be affected or adjusted by reason of the amendments made by such subsection (b) except to the extent that the applicable period of limitation for the assessment of tax and the filing of a claim for credit or refund has not expired prior to the date on which this Act is enacted. If the applicable period of limitation for the filing of a claim for credit or refund would expire within the six-month period following the date on which this Act is enacted, the applicable period for the filing of such a claim for credit or refund shall be extended to include such six-month period.

Effective dates.
45 USC 231 note.
26 USC 3231
note.

Extension.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1465, Pt. 1 (Comm. on Interstate and Foreign Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Oct. 1, considered and passed Senate.