

TITLE 45 - RAILROADS**CHAPTER 9 - RETIREMENT OF RAILROAD EMPLOYEES****SUBCHAPTER IV - RAILROAD RETIREMENT ACT OF 1974****§ 231i. Erroneous payments****(a) Recovery**

If the Board finds that at any time more than the correct amount of annuities or other benefits has been paid to any individual under this subchapter, or payment has been made to an individual not entitled thereto, recovery by adjustment in subsequent payments to which such individual, or any other individual on the basis of the same compensation, wages, or self-employment income, is entitled under this subchapter, or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by setoff or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this subchapter, or the Railroad Unemployment Insurance Act, to the estate of such individual or to any person on the basis of the compensation, wages, or self-employment income of such individual. The Board shall have the authority to recover from any payment which would be made to an individual by the Board under section 231f (b)(2) of this title the amount of annuity payments made to such individual which are erroneous because of such individual's entitlement to monthly insurance benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.].

(b) Adjustments

Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities or other benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

(c) Decision not to recover

There shall be no recovery in any case in which more than the correct amount of annuities or other benefits has been paid under this subchapter to an individual or payment has been made to an individual not entitled thereto who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this subchapter or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] or would be against equity or good conscience.

(d) Liability of officers

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section.

(Aug. 29, 1935, ch. 812, § 10, 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. 1344; amended Pub. L. 97-35, title XI, § 1123, Aug. 13, 1981, 95 Stat. 638.)

References in Text

The Railroad Unemployment Insurance Act, referred to in subsecs. (a) and (c), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Amendments

1981—Subsec. (a). Pub. L. 97–35 inserted provisions authorizing Board to recover from any payment which would be made to an individual by Board under section 231f (b)(2) of this title amount of annuity payments made to such individual which are erroneous because of such individual’s entitlement to monthly insurance benefits under title II of the Social Security Act.

Effective Date of 1981 Amendment

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