

"Employment", as defined in Social Security Act.  
*Ante*, p. 625.

SEC. 15. The term "employment", as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of the Railroad Retirement Act of 1935.

Approved, August 29, 1935.

[CHAPTER 813.]

AN ACT

August 29, 1935.  
 [H. R. 8652.]  
 [Public, No. 400.]

To levy an excise tax upon carriers and an income tax upon their employees, and for other purposes.

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

Definitions.

DEFINITIONS

"Carrier."

SECTION 1. That as used in this Act—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

*Proviso.*  
 Street, interurban,  
 or suburban electric  
 railway.

"Employee."

(b) The term "employee" means (1) each person who at or after the enactment hereof is in the service of a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative", who before or after the effective date has performed service for a carrier, who is duly designated and authorized to represent employees under and in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, was or is engaged in such representative service in behalf of such employees.

Persons deemed in  
 service of carrier.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

"Compensation."

(d) The term "compensation" means any form of money remuneration for active service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, or other form of personal relief.

"Effective date."

(e) The term "effective date" means March 1, 1936.

"Enactment."

(f) The term "enactment" means the date on which this Act may be approved by the President or be finally passed.



## INCOME TAX ON EMPLOYEES

SEC. 2. In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee,  $3\frac{1}{2}$  per centum of the compensation of such employee (except a representative) not in excess of \$300 per month, received by him after the effective date.

Income tax on employees.  
Imposition.

## DEDUCTION OF TAX FROM WAGES

SEC. 3. (a) The tax imposed by section 2 of this Act shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the compensation of the employee as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

Deduction of tax from wages.  
Duty of employer.

(b) If more or less than the correct amount of tax imposed by section 2 is paid with respect to any compensation payment, then, under regulations made under this Act by the Commissioner of Internal Revenue, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same employee by the same employer.

Liability for payment.

Adjustment of tax authorized.

## EXCISE TAX ON CARRIERS

SEC. 4. In addition to other taxes, every carrier shall pay an excise tax of  $3\frac{1}{2}$  per centum of the compensation not in excess of \$300 per month paid by it to its employees after the effective date.

Excise tax on carriers.  
Imposition.

## ADJUSTMENT OF TAX

SEC. 5. If more or less than the correct amount of the tax imposed by section 4 is paid, with respect to any compensation payment, then, under regulations made by the Commissioner of Internal Revenue, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent excise-tax payments made by the same employer.

Adjustment of tax authorized.

## REFUNDS AND DEFICIENCIES

SEC. 6. If more or less than the correct amount of the tax imposed by sections 2 or 4 of this Act is paid or deducted with respect to any compensation payment and the overpayment or underpayment of the tax cannot be adjusted under sections 3 or 5, the amount of the overpayment shall be refunded, or the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this Act as made by the Commissioner of Internal Revenue.

Refunds and deficiencies.

Rules and regulations governing.

## INCOME TAX ON EMPLOYEES' REPRESENTATIVE

SEC. 7. In addition to other taxes, there shall be levied, collected, and paid upon the compensation of each employees' representative received by such representative an income tax of 7 per centum annually upon that portion of the compensation of such employees' representative not in excess of \$300 per month. The compensation of a representative for the purpose of ascertaining the tax thereon shall be determined according to such rules and regulations as the Commissioner of Internal Revenue shall deem just and reasonable and as near as may be shall be the same compensation as if the representative were still in the employ of the last former carrier.

Income tax on employees' representative.  
Imposition.

Determination of compensation.



Collection and payment of taxes.

Duty of Commissioner of Internal Revenue.

Interest charge on payments in default.

Rules and regulations.

Provisions of law applicable.

Vol. 44, pp. 93, 99;

Vol. 48, p. 768.

U. S. C., pp. 1107,

1133, 1134.

Fractional part of cent.

Court jurisdiction.

Nature of cases in which application may be entertained and relief granted.

Penalties.

Failure to make required report.

Fraudulent statements.

Punishment.

"Employment", as defined in Social Security Act.

*Ante*, p. 639.

Termination of taxes.

#### COLLECTION AND PAYMENT OF TAXES

SEC. 8. (a) The taxes imposed by this Act shall be collected by the Commissioner of Internal Revenue and shall be paid into the Treasury of the United States as internal-revenue receipts. If the taxes are not paid when due, there shall be added as part of the tax (except in the case of adjustments made in accord with the provisions of this Act) interest at the rate of 6 per centum per annum, or for any part of a month, from the date the tax became due until paid.

(b) Such taxes shall be collected and paid quarterly in such manner and under such conditions not inconsistent with this Act as may be prescribed by the Commissioner of Internal Revenue.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the taxes imposed by this Act.

(d) In the payment of any tax under this Act a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

#### COURT JURISDICTION

SEC. 9. The several Districts<sup>1</sup> Courts of the United States and the Supreme Court of the District of Columbia, respectively, shall have jurisdiction to entertain an application and to grant appropriate relief in the following cases which may arise under the provisions of this Act:

(a) An application by the Commissioner of Internal Revenue to compel an employee or other person residing within the jurisdiction of said court or a carrier subject to service of process within said jurisdiction, to comply with any obligations imposed on said employee, other person, or carrier under the provisions of this Act.

(b) The jurisdiction herein specifically conferred upon the said Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by said courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this Act.

#### PENALTIES

SEC. 10. Any person or any carrier which shall willfully fail or refuse to make any report in accordance with this Act required by the Commissioner of Internal Revenue in the administration of this Act, or which shall knowingly make any false or fraudulent statement or report in response to any report or statement required by this Act shall be punished on conviction by a fine of not less than \$100 nor more than \$10,000.

#### SOCIAL SECURITY ACT

SEC. 11. The term "employment", as defined in subsection (b) of section 811 of Title VIII of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of this Act.

#### TERMINATION OF TAXES

SEC. 12. The taxes imposed by this Act shall not apply to any compensation received or paid after February 28, 1937.

<sup>1</sup> So in original.



## SEPARABILITY

SEC. 13. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Separability provision.

Approved, August 29, 1935, 3 p. m.

[CHAPTER 814.]

## AN ACT

To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

August 29, 1935.  
[H. R. 8870.]

[Public, No. 401.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Federal Alcohol Administration Act."

Federal Alcohol Administration Act.

## FEDERAL ALCOHOL ADMINISTRATION

SEC. 2. (a) There is hereby created the Federal Alcohol Administration as a division in the Treasury Department.

Federal Alcohol Administration.

Division established.  
*Post*, pp. 1964, 1965.

(b) The Administration shall be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall for his services receive compensation at the rate of \$10,000 per annum, together with actual and necessary traveling and subsistence expenses while engaged in the exercise of his powers and duties outside the District of Columbia. No person shall be eligible to appointment, or continue in office, as Administrator if he is engaged or financially interested in, or is an officer or director of or employed by a corporation engaged in, the production or sale or other distribution of alcoholic beverages, or the financing thereof.

Organization.  
Administrator; appointment, compensation.

Expenses.

Qualifications.

(c) The Administrator shall, without regard to the civil-service laws and the Classification Act of 1923, as amended, appoint and fix the compensation and duties of such officers and employees as he deems necessary to carry out his powers and duties, but the compensation so fixed shall be subject to the approval of the Secretary of the Treasury. The Administrator is authorized to adopt an official seal, which shall be judicially noticed.

Personnel; appointment, compensation.

Official seal.

(d) The Administrator is authorized and directed to prescribe such rules and regulations as may be necessary to carry out his powers and duties. All rules and regulations prescribed by the Administrator shall be subject to the approval of the Secretary of the Treasury.

Rules and regulations.

Approval of.

(e) Appropriations to carry out powers and duties of the Administrator shall be available for expenditure, among other purposes, for personal services and rent in the District of Columbia and elsewhere, expenses for travel and subsistence, for law books, books of reference, magazines, periodicals, and newspapers, for contract stenographic reporting services, for subscriptions for library services, for purchase of samples for analysis or use as evidence, and for holding conferences of State and Federal liquor control officials.

Appropriations.  
*Post*, pp. 1125, 1834.

(f) The Administrator may, with the consent of the department or agency affected, utilize the services of any department or other agency of the Government to the extent necessary to carry out his powers and duties and authorize officers and employees thereof to act as his agents.

Cooperation of Executive departments and agencies.