

COLLECTION OF FEDERAL UNEMPLOYMENT TAX

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Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 9951]

The Committee on Finance, to which was referred the bill (H.R. 9951) to provide for the collection of the Federal unemployment tax in quarterly installments during each taxable year; to make status of employer depend on employment during preceding as well as current taxable year; to exclude from the computation of the excess the balance in the employment security administration account as of the close of fiscal years 1970 through 1972; to raise the limitation on the amount authorized to be made available for expenditure out of the employment security administration account by the amounts so excluded; and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SUMMARY OF THE BILL AS PASSED BY THE HOUSE

The House bill would—

- (1) Require that Federal unemployment taxes be paid quarterly, rather than annually as under present law;
- (2) Phase in the transition from an annual to quarterly basis over a 3-year period;
- (3) Exempt an employer from the quarterly requirement if his cumulative tax liability is \$100 or less; and
- (4) Make certain other changes to assure that the accelerated revenues collected could be used for State and Federal administrative expenses.

SUMMARY OF AMENDMENT

The amendment reported by the committee adds provisions to the Internal Revenue Code relating to the tax consequences of making or offering improper payments by private foundations to Government officials. In such cases: (1) the foundation making the improper payment is to lose its exempt status and contributions to it are no longer to be deductible, (2) a tax of 100 percent of the amount received is to be imposed upon the Government official receiving this payment, and (3) in certain circumstances a tax of 100 percent of the amount involved is to be imposed upon the foundation manager or managers responsible for the payment.

ACCELERATED COLLECTION OF FEDERAL UNEMPLOYMENT TAX

BACKGROUND

Under present law, a 3.1-percent Federal unemployment tax is imposed on employers. However, the employer receives a 2.7-percent tax credit if his State has an approved unemployment compensation program—as all States do.

The remaining 0.4 percent, called the net Federal tax, is used to pay the cost of Federal and State administration of the unemployment insurance and employment service programs. Revenues from the net Federal tax are first put in an Employment Security Administration account for current Federal and State administrative expenses; any funds not used for this purpose during the fiscal year are placed in a special loan account from which States can get advances when the cost of unemployment benefits becomes particularly heavy.

The Congress through the appropriations process determines the amounts for Federal and State administrative expenses; however, appropriations for State expenses cannot exceed 95 percent of the estimated net Federal unemployment tax receipts for the fiscal year.

An "employer" for purposes of the unemployment tax includes any person who has employed at least four different persons for at least 1 day during each of at least 20 weeks during a year. Only the first \$3,000 of an employee's wages is subject to the unemployment tax.

Since the \$3,000 limitation has been in effect for almost three decades, tax revenues today do not grow as wages rise, but rather only as more workers enter the labor force. Administrative costs, however, do reflect wage increases. It is estimated that these costs will exceed unemployment tax revenues by about \$26 million in fiscal year 1970; the deficit is expected to increase in succeeding years, since expenses are increasing at a faster rate than revenues.

THE BILL

H.R. 9951 would provide temporary relief for this problem. Basically, the bill would accelerate Federal unemployment tax collections by requiring their collection on a quarterly basis. They are presently collected once annually, in January following the year in which the wages are paid.

The change from annual to quarterly collections would be phased in over a 3-year period to ease the financial burden on employers. Even

with this phasing in, the accelerated collections would permit projected revenues to exceed administrative costs in fiscal years 1970, 1971, and 1972. This would be possible not because of any increase in employers' tax liability, but because of the timing of collections, which would occur sooner than under present law. Once the transition to quarterly collections is complete, beginning with fiscal year 1973, collections during a fiscal year would only be slightly higher than under present law. They would be higher because April tax collections would be credited to the current fiscal year rather than to the following fiscal year.

Quarterly tax collections would result in another advantage to the unemployment compensation program. Under the present annual collection system, the Employment Security Administration account has had to borrow funds at interest in order to make payments during the first part of the fiscal year. An estimated \$5.3 million in interest costs will be saved in 1971 and 1972 because of the more current receipt of taxes as they are collected on a quarterly basis.

Quarterly taxpayments

Beginning in calendar year 1970, the Federal unemployment tax would be computed by an employer during the month following the end of each calendar quarter. He would not file a quarterly tax return of wages paid, but he would be required to deposit the taxes due with a Federal Reserve bank or other authorized depository. No deposit would be required if the employer's tax liability (plus any accumulated tax liability) was \$100 or less. The employer would file his tax return annually by the end of each January (as under present law), and at that time he would pay the balance of the unemployment taxes still owed.

In order to ease the adjustment of employers to the new payment schedule, the change to full quarterly payments would be made over a 3-year period. In 1970, the employer would only be required to deposit one-third of his quarterly tax during April, July, and October 1970; he would pay the remainder of his tax when he filed his 1970 tax return in January 1971. In calendar year 1971, the employer would be required to deposit two-thirds of his quarterly tax during April, July, and October 1971; he would pay the remainder of his tax when he filed his 1971 tax return in January 1972. Beginning in calendar year 1972, the full quarterly tax would be deposited after each quarter. No deposit would be required for any quarter in which the employer's tax liability (plus any accumulated tax liability for previous quarters) was \$100 or less.

The \$100 exemption is consistent with current requirements on deposits of income tax withheld. Under Treasury Department regulations, every employer who withholds more than \$100 in employee income taxes monthly must deposit those taxes with a Federal Reserve bank or other authorized bank within 15 days after the end of the month.

The provision concerning cumulative taxes of less than \$100 would work as follows. At the end of each of the first three quarters of a calendar year, the employer would compute his Federal unemployment tax liability of 0.4 percent of the first \$3,000 of each worker's annual wages. There would be a 2-year transition to this new system.

Under it, in 1970, he would compute one-third of his liability; in 1971, he would compute two-thirds. If the resulting figure was more than \$100, he would deposit the amount with a Federal Reserve bank or other authorized depository. If the figure was \$100 or less, he would not be required to deposit the tax until his cumulative undeposited taxes for this and prior quarters totaled more than \$100.

In January, the employer would compute his Federal unemployment tax liability for the entire previous year; he would subtract from this the amounts he had already deposited for the first three quarters of the previous year, and he would make full payment of the remaining balance, whether or not it was \$100 or less.

At the 0.4 percent net Federal tax rate, \$100 represents the quarterly tax on a taxable payroll of \$25,000. Since only one-third of an employer's quarterly tax would have to be deposited in 1970, in that year only employers with taxable payrolls of more than \$75,000 each quarter would be required to make a deposit each quarter. In 1971, when two-thirds of the employer's quarterly tax would have to be deposited, only employers with taxable payrolls of more than \$37,500 each quarter would be required to make a deposit each quarter.

For example, an employer with a taxable payroll of \$27,000 in each quarter would have a tax liability of \$432 annually, or \$108 quarterly. In 1970, one-third of his quarterly liability would be \$36; since this is less than \$100, no deposit would be required in April 1970. In July 1970, he still would not be required to make a deposit. But in October 1970, the cumulative amount of \$108 owed for the first three quarters would have to be deposited. In January 1971, the remaining \$324 of his 1970 unemployment tax liability would be paid when the annual tax return was filed.

In calendar year 1972, two-thirds of this employer's quarterly tax liability would be \$72; no deposit would be required in April 1971 since this amount is less than \$100. In July 1971, the cumulative amount would be \$144, and that full amount would be deposited. No deposit would be required in October 1971; the remaining \$288 of tax liability would be paid in January 1972.

Beginning in calendar year 1972, this employer's tax liability would be \$108 in each quarter, and this amount would be deposited after each quarter.

Employment Security Administration account

Under the Social Security Act, unemployment tax revenues in the Employment Security Administration account not used for State and Federal administrative expenses during a fiscal year are transferred to a special loan account (called the Federal unemployment account) from which States can get advances when the cost of unemployment benefits becomes particularly heavy. The current balance in the loan fund will be more than adequate to meet the anticipated need over the next few years. But to insure that the accelerated tax revenues required by the bill would be available for State and Federal administrative expenses, it is necessary to amend present law. The bill accord-

ingly would provide that any tax revenues not used during fiscal years 1970, 1971, and 1972 for current State and Federal administrative expenses would be retained in the Employment Security Administration account for future administrative expenses rather than transferred to the loan account.

Under existing law, grants to States for administrative costs are limited to 95 percent of estimated tax collections during the fiscal year. The bill would add to this limit any revenues attributable to, but not used in fiscal years 1970, 1971, and 1972 which remained in the Employment Security Administration account. Such a provision is necessary to assure that the accelerated tax revenues would be available for State administrative expenses. The actual amount appropriated for administrative costs in any fiscal year would continue to be determined through the congressional appropriations process.

Definition of employer

Present law defines an employer for unemployment tax purposes as someone who has four or more employees "each of some 20 days during the taxable year, each day being in a different calendar week." Since the 20th week of a year comes in May, no business under present law meets the statutory definition of an "employer" until then. In order to make possible the collection of unemployment taxes in April for the first quarter of the year, the definition of "employer" must be modified. The bill would broaden the definition of "employer" to include employers who met the definition in the previous year. This is the approach used by most States, which collect State unemployment taxes quarterly. The Labor Department estimates that the impact of this change in the definition on coverage would probably be relatively slight.

Effective dates

The changes made by the bill relating to the definition of employer and to the quarterly collection of Federal unemployment taxes would be effective for calendar years 1970 and thereafter.

The changes relating to the availability of funds in the Employment Security Administration account would be effective on the date of enactment.

Fiscal impact

Under present law, State and Federal administrative costs are expected to exceed tax collections by \$26 million in fiscal year 1970, and by greater amounts in succeeding fiscal years. The bill would result in an estimated \$34.3 million surplus in fiscal year 1970, with slightly larger surpluses in fiscal years 1971 and 1972. These amounts are shown in table 1 below. Table 2 compares Federal unemployment tax collections under present law and under the bill.

TABLE 1.—ESTIMATED FEDERAL UNEMPLOYMENT TAX AND FEDERAL AND STATE ADMINISTRATIVE COSTS, FISCAL YEARS 1969-72, UNDER PRESENT LAW AND UNDER H.R. 9951

[In millions of dollars]

	Fiscal year—			
	1969	1970	1971	1972
Present law:				
Unemployment tax collections.....	\$632.0	\$665.0	\$695.0	\$725.0
Administrative costs:				
State administrative costs ¹	604.1	657.7	704.0	750.4
Federal administrative costs ¹	31.9	29.1	30.1	30.8
Interest on advances.....	4.0	4.2	4.4	4.6
Subtotal, administrative costs.....	640.0	691.0	738.5	785.8
Annual deficit.....	-8.0	-26.0	-43.5	-60.8
H.R. 9951:				
Unemployment tax collections.....	632.0	725.3	775.8	825.5
Administrative costs:				
State administrative costs ¹	604.1	657.7	704.0	750.4
Federal administrative costs ¹	31.9	29.1	30.1	30.8
Interest on advances.....	4.0	4.2	2.7	1.0
Subtotal, administrative costs.....	640.0	691.0	736.8	782.2
Annual surplus (+) or deficit (-).....	-8.0	+34.3	+39.0	+43.3

¹1970 figures as in revised budget; 1971 and 1972 projections provide only for mandatory increases in administrative costs.

TABLE 2.—ESTIMATED FEDERAL UNEMPLOYMENT TAX COLLECTIONS UNDER PRESENT LAW AND H.R. 9951, FISCAL YEARS 1970-73

Fiscal year	Wages paid in—	Tax collected in—	Amount collected (millions)
Present law:			
1970.....	Calendar year 1969.....	January 1970.....	\$665.0
1971.....	Calendar year 1970.....	January 1971.....	695.0
1972.....	Calendar year 1971.....	January 1972.....	725.0
1973.....	Calendar year 1972.....	January 1973.....	755.0
H.R. 9951:			
1970.....	Calendar year 1970.....	January 1970.....	665.0
	January-March 1970.....	April 1970.....	60.3
Total, fiscal year 1970.....			725.3
1971.....	April-June 1970.....	July 1970.....	66.6
	July-September 1970.....	October 1970.....	47.7
	October-December 1970.....	January 1971.....	1 520.4
	January-March 1971.....	April 1971.....	141.1
Total, fiscal year 1971.....			775.8
1972.....	April-June 1971.....	July 1971.....	142.5
	July-September 1971.....	October 1971.....	91.4
	October-December 1971.....	January 1972.....	1 350.0
	January-March 1972.....	April 1972.....	241.6
Total, fiscal year 1972.....			825.5
1973.....	April-June 1972.....	July 1972.....	224.4
	July-September 1972.....	October 1972.....	135.9
	October-December 1972.....	January 1973.....	1 153.1
	January-March 1972.....	April 1973.....	251.2
Total, fiscal year 1973.....			764.6

¹ Includes all taxes due on wages paid during the previous calendar year not deposited during the previous year.

IMPROPER PAYMENTS BY PRIVATE FOUNDATIONS TO GOVERNMENT OFFICIALS

REASONS FOR THE AMENDMENT

In recent months an increasing number of instances have been made public in which private foundations have made or agreed to make payments, sometimes quite substantial and sometimes for long periods of time, to various Government officials. Private foundations, like other organizations exempt under section 501(c)(3) of the code, enjoy tax privileges of several types. Typically, the donor or donors have received income tax charitable contribution deductions, estate tax deductions, and gift tax exemptions for their transfers to the foundations. Also, the foundations themselves are exempt from taxation on their otherwise taxable income. In many cases, it is believed, a substantial portion of the assets of the foundation can presently be accounted for as the result of the tax benefits received from the Federal Government. In short, current assets of private foundations frequently arise from funds which, if taxes had not been foregone as a result of deductions or exemption, would be largely public money rather than private money. Moreover, unlike most other such exempt organizations, private foundations generally have little or no responsibility to outside parties since they are not dependent upon the general public for support or patronage.

Under the present law, there are certain specific restrictions on an organization coming under the provisions of section 501(c)(3) once it establishes it is organized and operated for an exempt purpose. The exemption is lost if the organization participates in, or intervenes in, a political campaign on behalf of any candidate for public office. Exempt status is also lost if certain "prohibited transactions" are engaged in. Unreasonable accumulations of income may result in the denial of exemption and unrelated business income may be taxable to such an organization (with certain limited exceptions) even though the tax exemption itself is not lost.

While the "prohibited transactions" provisions referred to above are designed to prevent self-dealing between the exempt organization and its creator or major contributors, unfortunately, there is no provision in the present law which specifically deals with the practice whereby private tax-exempt foundations make payments to public officials or members of their families.

In the view of this committee it is intolerable to permit what in effect amounts to public money to be used by private parties not responsible to the public directly or through Government, in ways that may improperly affect the attitudes and official actions of Government officials at policymaking levels. Accordingly, the committee has approved an amendment to this bill which would apply in the case of private foundations making payments of money to, making gifts to, transferring or leasing property to, or employing Government officials and spouses and children of Government officials, or offering to do any of the foregoing for such persons. The Government officials to which the bill relates are those who are elected and presidentially appointed Federal officials, Federal employees paid at the "supergrade" level, Senate and House employees paid at least \$15,000 a year, and officials of a State (other than legislators and legislative officials)

who are elected or appointed by the Governor or by the State legislature.

If a private foundation engages, directly or indirectly, in such a transaction with a Government official or even offers to engage in such a transaction, its exempt status is to be withdrawn (a special provision would permit such an organization to apply for renewal of its exempt status after a time). In addition, where a payment or transfer is actually made, the Government official would have to pay over in taxes the entire value of the payment or transfer. Finally, where a foundation official knowingly authorizes an improper transaction then he, too, would be required to pay over to the Government the entire value of what was offered or paid or transferred.

The committee is well aware that the general subject of tax treatment of private foundations is presently being considered in the House Ways and Means Committee. However, the particular matter to which this amendment is addressed was not the subject of hearings in that committee and at least up to this time, has not been included in the reform legislation presently being considered. Since this committee has considered the matter and has received the benefit of testimony at public hearings and since disclosures of such payments are becoming more frequent, the committee has concluded that the more responsible position is for this body to take action in this area at this time. This conclusion is buttressed by the fact that the Judicial Conference of the United States recently announced (after our hearings on the subject) that judges of the Federal Courts (other than the Supreme Court) are not to receive outside compensation (even if disguised "in the form of loans, gifts, gratuities, honoraria, or otherwise").

GENERAL EXPLANATION

(1) *Loss of exempt status (sec. 5 of the bill and sec. 505 of the code).*—A new provision, section 505, is added to that part of the Internal Revenue Code dealing with exempt organizations. A private foundation will lose its exempt status and contributions to it will not be deductible if it engages, directly or indirectly, in any of the following transactions with a government official or a member of his family:

(1) Makes, or offers to make, any payment of money to any such individual.

(2) Makes, or offers to make, any gift or contribution, in any form whatsoever, to or for the use of any such individual, or makes, or offers to make, services or facilities available to any such individual.

(3) Transfers or leases, or offers to transfer or lease, any property to any such individual, or purchases or leases, or offers to purchase or lease, any property from any such individual.

(4) Employs, or offers to employ, any such individual, or retains, or offers to retain, the personal services of any such individual (unless such employment or personal services are performed without payment of any compensation or fee whatsoever).

The typical sale of listed securities through a broker, where neither the purchaser nor the seller knows the identity of the other participant, is not intended to be covered by these provisions.

A special feature makes the provision inapplicable to certain indirect transactions where benefits flow from the private foundation to the Government official. This exception relates to situations where the benefit to the Government official comes directly through an organization exempt under section 501(c)(3) which is not a private foundation, or from a governmental agency or instrumentality. The exception would be operative only where the private foundation does not request or direct that the transaction be made, or have prior knowledge of the identity of the individual involved. So, for example, a private foundation will remain free to make grants for certain types of studies in which Government officials participate but only if an independent public exempt organization, such as a university, has real control over the selecting process and actually makes the selection completely independent of the private foundation.

Under this rule beneficial research projects (such as development of new varieties of rice and wheat), which are financed by private foundations and conducted by universities and colleges or any other 501(c)(3) tax-exempt organization (exclusive of a private foundation) would not be affected and Government officials could participate in the project and have their expenses paid so long as the foundation does not request or direct their participation or have prior knowledge of their identity. On the question of identity, the private foundation could know generally the nature of a program and that Government officials were to attend, such as where a university, for example, desires to conduct a meeting of leading jurists and attorneys to revise court procedures and plans to include leading Government officials in the program. However, where the nature of the meeting would serve to identify a substantial number of the Government officials attending (by class or otherwise) such as a meeting of all U.S. attorneys, then prior knowledge of the meeting by the private foundation would be tantamount to prior knowledge of the identity of the participants.

It is not intended that this provision apply where gifts are made to institutions for which Government officials may be acting as trustee since in this case the gift is made to the principal and not to the agent. For example, this would mean that the provision outlined here would not apply in cases where public officials are trustees of an educational institution which receives a grant from a private foundation for use of the school.

This provision contains five exceptions to the general rules:

(a) Prizes and awards referred to in section 74 of the code where the candidates are selected from the general public.

(b) Scholarship and fellowship grants referred to in section 117 of the code where the recipients are candidates for degrees and are chosen from the general public on a competitive basis or on the basis of need.

(c) Annuities or other payments made under a qualified pension plan or qualified annuity plan.

(d) Services or facilities which are made available to Government officials and their families on the same basis that they are made available to the general public.

(e) Any contributions or gifts, or services or facilities (including meals) which are made available to the Government officials that do not exceed \$25 in value in any one calendar year.

A private foundation to which this provision applies is defined in general as an exempt 501(c)(3) organization that does not receive a substantial part of its support from the United States or local governments or the general public, the charitable contribution to which is limited to 20 percent of adjusted gross income. Churches, schools, and hospitals are not included.

The Government officials to which this provision applies are elected and presidentially appointed Federal officers, Federal civil service employees paid at least as much as the starting salary for GS-16 (the lowest of the "supergrades"), Federal schedule C employees, House and Senate employees paid at an annual rate of at least \$15,000, and State elected and gubernatorially appointed officers in the executive and judicial branches. This provision also applies to the Government official's spouse and his children under 21.

This provision does not extend to State legislative officials, most of whom operate on a part-time basis, receive small salaries and who generally continue their business or professional activities during their terms of office, particularly when legislatures are not in session. Nor does it apply to officials of counties and other subdivisions of States, essentially for the same reason. With these exceptions, the definition is intended to generally apply to those officials who are likely to be in policymaking positions, or in positions where they advise on policy.

If a foundation has engaged in a transaction covered by this provision, it will be denied exempt status for all taxable years beginning with the taxable year during which it is officially notified by the Commissioner that it has engaged in such a transaction. If the foundation thereafter applies for reinstatement of its exempt status and the Commissioner is satisfied that the foundation will not knowingly engage in any transaction to which this provision applies, then the foundation may once again be exempt. Of course, it must still satisfy the other code provisions. This "redemption" provision operates only to prospectively excuse the specific violation or violations that gave rise to the official notification contemplated in this provision. In any event, the organization will have lost its exempt status for at least 2 years.

This provision is to apply to taxable years ending after the date of enactment but only with respect to transactions occurring after the date of enactment.

(2) *Tax on officials and managers (sec. 6 of the bill and secs. 4891 through 4893 of the code).*—Where section 505(a) has been violated (that is, where a payment, transfer, employment, or preferred use of facilities has been made or offered) an excise tax is to be imposed to remove from the Government official the entire benefit which he or his family received. The excise tax imposed by section 4891 is based upon the entire amount involved and (except in the case of sales to and purchases from private foundations) not merely the official's net profit. Expenses incurred in earning this amount do not reduce the figure upon which the tax is to be calculated.

Where the foundation manager involved in authorizing the transaction knew that it violated section 505(a), and the transaction is completed, a tax is imposed upon the manager in an amount equal to the money or value of facilities improperly paid. However, if the trans-

action is not completed, then the tax is imposed upon the amount offered. If the amount involved cannot be determined; for example, where an offer of employment was for an indefinite period or for an unspecified salary and the offer was rejected by the Government official, then the tax is to be \$5,000.

The tax is imposed upon the foundation manager or managers who authorize the transaction only if he or they know that it is a transaction to which new section 505(a) applies. For purposes of this tax a manager is, in general, a foundation official or supervisor who has authority to determine the transactions in which the foundation engages.

In order to coordinate these provisions with the income taxes to which such Government officials and managers are subject, any amounts subject to this 100-percent tax will not be included in gross income for income tax purposes.

These provisions, too, will apply to taxable years ending after the date of enactment but only with respect to payments, transfers, and use of facilities after the date of enactment.

CHANGES IN EXISTING LAW.

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

INTERNAL REVENUE CODE OF 1954

CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

- Sec. 101. Certain death benefits.
- Sec. 102. Gifts and inheritances.
- Sec. 103. Interest on certain governmental obligations.
- Sec. 104. Compensation for injuries or sickness.
- Sec. 105. Amounts received under accident and health plans.
- Sec. 106. Contributions by employer to accident and health plans.
- Sec. 107. Rental value of parsonages.
- Sec. 108. Income from discharge of indebtedness.
- Sec. 109. Improvements by lessee on lessor's property.
- Sec. 110. Income taxes paid by lessee corporation.
- Sec. 111. Recovery of bad debts, prior taxes, and delinquency amounts.
- Sec. 112. Certain combat pay of members of the Armed Forces.
- Sec. 113. Mustering-out payments for members of the Armed Forces.
- Sec. 114. Sports programs conducted for the American National Red Cross.
- Sec. 115. Income of States, municipalities, etc.
- Sec. 116. Partial exclusion of dividends received by individuals.
- Sec. 117. Scholarships and fellowship grants.

- Sec. 118. Contributions to the capital of a corporation.
 Sec. 119. Meals or lodging furnished for the convenience of the employer.
 Sec. 121. Gain from sale or exchange of residence of individual who has attained age 65.
 Sec. 122. Certain reduced uniformed services retirement pay.
 Sec. 123. Amounts received by government officials subject to excise tax.
 Sec. [123] 124. Cross references to other Acts.

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SEC. 123. AMOUNTS RECEIVED BY GOVERNMENT OFFICIALS SUBJECT TO EXCISE TAX.

Gross income does not include any money or the value of any property, services, or facilities received by a government official or a member of his family on the receipt of which a tax is imposed by section 4891(a).

SEC. [123] 124. CROSS REFERENCES TO OTHER ACTS.

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Subchapter F—Exempt Organizations

- Part I. General rule.
 Part II. Taxation of business income of certain exempt organizations.
 Part III. Farmers' cooperatives.
 Part IV. Shipowners' protection and indemnity associations.

PART I—GENERAL RULE

- Sec. 501. Exemption from tax on corporations, certain trusts, etc.
 Sec. 502. Feeder organizations.
 Sec. 503. Requirements for exemption.
 Sec. 504. Denial of exemption.
 Sec. 505. Improper transactions by private foundations with government officials.

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) **EXEMPTION FROM TAXATION.**—An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, or 504.

(b) **TAX ON UNRELATED BUSINESS INCOME.**—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) **LIST OF EXEMPT ORGANIZATIONS.**—The following organizations are referred to in subsection (a):

(1) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes.

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable,

scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

* * * * *

SEC. 505. IMPROPER TRANSACTIONS BY PRIVATE FOUNDATIONS WITH GOVERNMENT OFFICIALS.

(a) *DENIAL OF EXEMPTION.*—A private foundation or organization shall not be exempt from taxation under section 501(a) if such foundation or organization engages, directly or indirectly, in any of the following transactions with an individual who is a government official or a member of the family of a government official:

(1) Makes, or offers to make, any payment of money to any such individual.

(2) Makes, or offers to make, any gift or contribution, in any form whatsoever, to or for the use of any such individual, or makes, or offers to make, services or facilities available to any such individual.

(3) Transfers or leases, or offers to transfer or lease, any property to any such individual, or purchases or leases, or offers to purchase or lease, any property from any such individual.

(4) Employs, or offers to employ, any such individual, or retains, or offers to retain, the personal services of any such individual (unless such employment or personal services are performed without payment of any compensation or fee whatsoever).

(b) *EXCEPTIONS.*—Subsection (a) shall not apply to—

(1) prizes or awards which are excluded from the gross income of the recipients under section 74, if the recipients of such prizes or awards are selected from the general public;

(2) scholarships or fellowships which are excluded from the gross income of the recipients under section 117, if the recipients of such scholarships or fellowships are candidates for degrees at educational institutions (as defined in section 151(e)(4)) and are selected from the general public on a competitive basis or on a basis of need;

(3) any annuity or other payment (A) by a trust (forming part of a stock-bonus, pension, or profit-sharing plan) which is a qualified trust under section 401, or (B) under a plan which meets the requirements of section 404(a)(2);

(4) any services or facilities made available to any such individual on the same basis as they are made available to the general public; or

(5) any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any such individual, if the aggregate value of such contributions, gifts, services, or facilities to, or made available to, such individual during the calendar year does not exceed \$25.

(c) *DEFINITIONS.*—For purposes of this section.—

(1) *PRIVATE FOUNDATION OR ORGANIZATION.*—The term “private foundation or organization” means any organization described in section 501 (c) (3) and exempt from taxation under section 501 (a)

which does not normally receive a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function which constitutes the basis for its exemption under section 501 (a)) from either—

(A) the United States, a State, or a possession of the United States, a political subdivision of a State or possession, or the District of Columbia, or

(B) direct or indirect contributions from the general public, except that such term does not include a church or a convention or association of churches, an educational organization referred to in section 503 (b) (2), or a hospital referred to in section 503 (b) (5).

(2) **GOVERNMENT OFFICIAL.**—The term “government official” means, with respect to a transaction described in subsection (a), an individual who, at the time of such transaction, holds any of the following offices or positions:

(A) an elective public office in the executive or legislative branch of the Government of the United States;

(B) an office in the executive, legislative, or judicial branch of the Government of the United States, appointment to which was made by the President;

(C) a position in the executive, legislative, or judicial branch of the Government of the United States—

(i) which is listed in schedule C of rule VI of the Civil Service Rules, or

(ii) the compensation for which is equal to or greater than the lowest rate of compensation prescribed for GS-16 of the General Schedule under section 5332 of title 5, United States Code;

(D) a position under the House of Representatives or the Senate of the United States held by an individual receiving gross compensation at an annual rate of \$15,000 or more;

(E) an elective public office in the executive or judicial branch of the government of a State or of the District of Columbia; and

(F) an office in the executive or judicial branch of the government of a State or of the District of Columbia, appointment to which (or election to which) was made by the Governor or legislature of the State, or by the Commissioner of the District of Columbia.

(3) **MEMBERS OF FAMILY.**—The members of the family of an individual, with respect to a transaction described in subsection (a), are—

(A) his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and

(B) the children (including legally adopted children and stepchildren) of such individual who have not attained the age of 21.

(d) **CERTAIN INDIRECT TRANSACTIONS.**—Subsection (a) shall not apply to a transaction engaged in indirectly by a private foundation or organization with an individual if the transaction with such individual—

(1) **IS ENGAGED IN DIRECTLY BY—**

(A) an organization (other than a private foundation or organization) which is described in section 501(c)(3) and is exempt from taxation under section 501 (a), or

(B) an organization which is an agency or instrumentality of (or owned or operated by) the United States, a State, a political subdivision of a State, or one or more States or political subdivisions, and

(2) is not engaged in by such organization on behalf of, or at the request or direction of, the private foundation or organization, or with prior knowledge and approval by the private foundation or organization of the identity of such individual.

(e) **TAXABLE YEARS AFFECTED.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a private foundation or organization shall be denied exemption from taxation under section 501(a) by reason of subsection (a) for all taxable years beginning with the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a transaction to which subsection (a) applies. The Secretary or his delegate shall publish such notice in the Federal Register on the day on which he so notifies such private foundation or organization.

(2) **FUTURE STATUS.**—Under regulations prescribed by the Secretary or his delegate, any private foundation or organization which is denied exemption from taxation under section 501(a) by reason of subsection (a) may, with respect to the second taxable year following the taxable year in which notice is given under paragraph (1) (or any taxable year thereafter), file claim for exemption from taxation under section 501(a). If the Secretary or his delegate is satisfied that such private foundation or organization will not knowingly again engage in a transaction to which subsection (a) applies such private foundation or organization shall not, with respect to taxable years beginning with the taxable year with respect to which such claim is filed, be denied exemption from taxation under section 501(a) by reason of any transaction to which subsection (a) applies engaged in before the date on which such notice was given under paragraph (1).

(f) **DISALLOWANCE OF CHARITABLE DEDUCTIONS.**—No gift, contribution, bequest, devise, legacy, or transfer, otherwise allowable as a deduction under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, shall be allowed as a deduction if made—

(1) to a private foundation or organization after the date on which the Secretary or his delegate publishes notice under subsection (e)(1) that he has notified such foundation or organization that it has engaged in a transaction to which subsection (a) applies, and

(2) in a taxable year of such private foundation or organization for which it is not exempt from taxation under section 501(a) by reason of subsection (a).

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CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

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SEC. 3306. DEFINITIONS.

(a) **EMPLOYER.**—For purposes of this chapter, the term “employer” does not include any person unless on each of some 20 days during the

taxable year or during the preceding taxable year, each day being in a different calendar week, the total number of individuals who were employed by him in employment for some portion of the day (whether or not at the same moment of time) was 4 or more.

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CHAPTER 39—REGULATORY TAXES

SUBCHAPTER A. Narcotic drugs and marihuana.
 SUBCHAPTER B. White phosphorus matches.
 SUBCHAPTER C. Adulterated butter and filled cheese.
 SUBCHAPTER D. Cotton futures.
 SUBCHAPTER E. Circulation other than of national banks.
 SUBCHAPTER F. Transactions by Government officials with tax-exempt private foundations.

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Subchapter F—Transactions by Government Officials with Tax-Exempt Private Foundations

Sec. 4891. Taxes imposed.

Sec. 4892. Definitions.

Sec. 4893. Special rules.

SEC. 4891. TAXES IMPOSED.

(a) *GOVERNMENT OFFICIALS.*—*There is hereby imposed on the receipt by a government official or a member of his family of—*

(1) *any money from a tax-exempt private foundation or organization in a transaction to which section 505(a) applies, or*

(2) *any property (other than money) from, or services or facilities furnished by, a tax-exempt private foundation or organization in a transaction to which section 505(a) applies,*

a tax equal to 100 percent of the amount of money, or the fair market value of the property, services, or facilities, so received.

(b) *FOUNDATION MANAGERS.*—*In any case in which a tax is imposed under subsection (a) with respect to a transaction to which section 505(a) applies, there is hereby imposed on the foundation manager or managers who authorize such transaction on behalf of the tax-exempt private foundation or organization, knowing that it is a transaction to which such section applies, a tax equal to the tax imposed by subsection (a). In the case of a transaction to which section 505(a) applies which consists of an offer described in such section which is not accepted, there is hereby imposed on the foundation manager or managers who authorize such transaction on behalf of the tax-exempt private foundation or organization, knowing that it is a transaction to which such section applies, a tax equal to the tax which would be imposed by subsection (a) if such offer had been accepted (or, if the tax which would be imposed by subsection (a) cannot be ascertained, a tax of \$5,000).*

SEC. 4892. DEFINITIONS.

For purposes of this subchapter—

(1) *IN GENERAL.*—*The terms "private foundation or organization", "government official", and "member of family" shall have the meanings assigned to them in section 505(c).*

(2) *TAX-EXEMPT PRIVATE FOUNDATION OR ORGANIZATION.*—*The term "tax-exempt private foundation or organization" means, with respect to any transaction, a private foundation or organization*

with respect to which, at the time of such transaction, the Secretary or his delegate has not published notice under section 505(e) that it has engaged in a transaction to which section 505(a) applies, and has not notified it that section 501(a) has ceased to apply to it by reason of any other provision of subtitle A.

(3) *FOUNDATION MANAGER*.—The term “foundation manager” means an individual serving as an officer, director, or trustee, or in any other supervisory position, of a tax-exempt private foundation or organization who, by reason of such position, has authority (either alone or with any other such individual or individuals) to determine the transactions in which such foundation or organization will engage and will not engage.

SEC. 4893. SPECIAL RULES.

(a) *SALES AND PURCHASES OF PROPERTY, ETC.*—

(1) *SALES TO PRIVATE FOUNDATIONS*.—In the case of money, property, services, or facilities received as consideration in a sale of property to, or exchange of property with, a tax-exempt private foundation or organization, the tax imposed by section 4891(a) shall apply only to an amount equal to the gain realized on such sale or exchange.

(2) *PURCHASES FROM PRIVATE FOUNDATIONS*.—In the case of property, services, or facilities received by purchase from a tax-exempt private foundation or organization, the tax imposed by section 4891(a) shall apply only to an amount equal to the amount by which the fair market value of the property, services, or facilities received exceeds the consideration paid therefor.

(b) *PERSON LIABLE FOR TAX*.—

(1) *GOVERNMENT OFFICIALS*.—The tax imposed by section 4891(a) shall be paid by the individual receiving the money, property, services, or facilities subject to tax, except that if such individual is a member of the family of a government official, such tax shall be paid by such government official.

(2) *FOUNDATION MANAGERS*.—The tax imposed by section 4891(b) shall be paid by the foundation manager or managers who authorize the transaction to which section 505(a) applies on behalf of the tax-exempt private foundation or organization. If more than one foundation manager is liable for the tax imposed by such section with respect to the same transaction, such foundation managers shall be jointly and severally liable for the tax so imposed.

(c) *REGULATIONS*.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

SUBCHAPTER A. Place and due date for payment of tax.

SUBCHAPTER B. Extensions of time for payment.

Subchapter A—Place and Due Date for Payment of Tax

Sec. 6151. Time and place for paying tax shown on returns.

Sec. 6152. Installment payments.

Sec. 6153. Installment payments of estimated income tax by individuals.

Sec. 6154. Installment payments of estimated income tax by corporations.

Sec. 6155. Payment on notice and demand.

Sec. 6156. Installment payments of tax on use of highway motor vehicles.

【Sec. 6157. Payment of taxes under provisions of the Tariff Act.】

Sec. 6157. *Payment of Federal unemployment tax on quarterly or other time period basis.*

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【SEC. 6157. PAYMENT OF TAXES UNDER PROVISIONS OF THE TARIFF ACT.

【For collection under the provisions of the Tariff Act of 1930 of the taxes imposed by section 4501(b), and subchapters A, B, C, D, and E of chapter 38, see sections 4504 and 4601, respectively.】

SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

(a) *GENERAL RULE.*—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person in the preceding calendar year employed 4 or more employees in employment (within the meaning of section 3306(c) and (d)) on each of some 20 days during such preceding calendar year, each such day being in a different calendar week, compute the tax imposed by section 3301 for each of the first three calendar quarters in the calendar year, and

(2) if paragraph (1) does not apply, compute the tax imposed by section 3301—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate.

(b) *COMPUTATION OF TAX.*—The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by the number of percentage points (including fractional points) by which the rate of tax specified in section 3301 exceeds 2.7 percent.

(c) *SPECIAL RULES FOR CALENDAR YEARS 1970 AND 1971.*—For purposes of subsection (a), the tax computed as provided in subsection (b) for any calendar quarter or other period shall be reduced (1) by 66½ percent if such quarter or period is in 1970, and (2) by 33½ percent if such quarter or period is in 1971.

(d) *SPECIAL RULE WHERE ACCUMULATED AMOUNT DOES NOT EXCEED \$100.*—Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed \$100.

CHAPTER 63—ASSESSMENT

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SEC. 6201. ASSESSMENT AUTHORITY.

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[(b) ESTIMATED INCOME TAX.—No unpaid amount of estimated tax under section 6153 or 6154 shall be assessed.]

(b) AMOUNT NOT TO BE ASSESSED.—

(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated tax under section 6153 or 6154 shall be assessed.

(2) FEDERAL UNEMPLOYMENT TAX.—No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

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CHAPTER 64—COLLECTION

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Subchapter B—Receipt of Payment

- Sec. 6311. Payment by check or money order.
- Sec. 6312. Payment by United States notes and certificates of indebtedness.
- Sec. 6313. Fractional parts of a cent.
- Sec. 6314. Receipt for taxes.
- Sec. 6315. Payments of estimated income tax.
- Sec. 6316. Payment by foreign currency.
- Sec. 6317. Payments of Federal unemployment tax for calendar quarter.

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SEC. 6317. PAYMENTS OF FEDERAL UNEMPLOYMENT TAX FOR CALENDAR QUARTER.

Payment of Federal unemployment tax for a calendar quarter or other period within a calendar year pursuant to section 6157 shall be considered payment on account of the tax imposed by chapter 23 for such calendar year.

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CHAPTER 66—LIMITATIONS

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SEC. 6518. TIME RETURN DEEMED FILED AND TAX CONSIDERED PAID.

(a) EARLY RETURN OR ADVANCE PAYMENT OF TAX.—For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time

granted the taxpayer and without regard to any election to pay the tax in installments.

* * * * *

(e) *PAYMENTS OF FEDERAL UNEMPLOYMENT TAX.*—Notwithstanding subsection (a), for purposes of section 6511 any payment of tax imposed by chapter 23 which, pursuant to section 6157, is made for a calendar quarter or other period within a calendar year shall, if made before the last days prescribed for filing the return for the calendar year (determined without regard to any extension of time for filing), be considered made on such last day.

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CHAPTER 67—INTEREST

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SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

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(k) *EXCEPTION AS TO FEDERAL UNEMPLOYMENT TAX.*—This section shall not apply to any failure to make a payment of tax imposed by section 3301 for a calendar quarter or other period within a taxable year required under authority of section 6157.

[(k)] (l) NO INTEREST ON CERTAIN ADJUSTMENTS.—

For provisions prohibiting interest on certain adjustments in tax, see section 6205(a).

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SOCIAL SECURITY ACT

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Employment Security Administration Account

Establishment of Account

Section 901. (a) There is hereby established in the Unemployment Trust Fund an employment security administration account.

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Administrative Expenditures

(c)(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1964, and for each fiscal year thereafter—

(A) such amounts (not in excess of the limit provided by paragraph (3)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in title III (including administration pursuant to agreements under any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C., secs. 49-49n), and

(iii) carrying into effect section 2012 of title 38 of the United States Code:

(B) such amounts as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this title and titles III and XII of this Act,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of the Act of June 6, 1933, as amended,

(iv) subchapter II of chapter 41 (except section 2012) of title 38 of the United States Code, and

(v) any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

* * * * *

[(3) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year is—

[(A) in the case of the fiscal year ending June 30, 1964, an amount equal to 95 percent of the amount estimated by the Secretary of the Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, and

[(B) in the case of any fiscal year thereafter, an amount equal to 95 percent of the amount estimated and set forth in the Budget of the United States Government for such fiscal year as the net receipts during such year under the Federal Unemployment Tax Act.

Each estimate of net receipts under this paragraph shall be based on a tax rate of 0.4 percent. The Secretary of the Treasury shall report his estimate under subparagraph (A) to the Congress within 30 days after the date of the enactment of this paragraph. Such report shall be printed as a House document.]

(3) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year is an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the net receipts during such year under the Federal Unemployment Tax Act; except that this limitation is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B). Each estimate of net receipts under this paragraph shall be based upon a tax rate of 0.4 percent.

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Determination of Excess and Amount To Be Retained in Employment Security Administration Account

(f)(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2) **[The]** (A) *Except as provided in subparagraph (B), the excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 902(b)) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.*

(B) *With respect to the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, the balance in the employment security administration account at the close of each such fiscal year shall not be considered excess but shall be retained in the account for use as provided in paragraph (1) of subsection (c).*

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