

APPROVED
OCT 19 1976

8/10/19/76

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: October 20

October 19, 1976

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *Jim Cannon*
SUBJECT: H.R. 15571 - Social Security Contributions
by Non-profit Organizations

*Postel
10/20/76*

*Archis
10/20/76*

Attached for your consideration is H.R. 15571, sponsored by Representatives Mikva and Ottinger.

Under current law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxation. In recent years it has become apparent that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed valid waiver certificates.

H.R. 15571 is an attempt to correct this situation by providing that the payment of social security taxes by any such organization constitutes a retroactive "constructive filing" of the required certificate.

A detailed explanation of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 15571 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15571 - Social security
contributions by non-profit organizations
Sponsor - Rep. Mikva (D) Illinois and
Rep. Ottinger (D) New York

Last Day for Action

October 20, 1976 - Wednesday

Purpose

Validates social security coverage for employees of certain non-profit organizations and clarifies future social security coverage status of such employees.

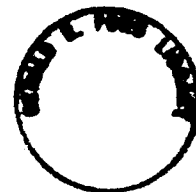
Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of the Treasury	No objection

Discussion

Under current law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service (IRS) a certificate waiving its exemption from social security taxation. In recent years it has become apparent that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed valid waiver certificates.

This has led to a situation in which the continued social security coverage of the employees of these organizations is placed in doubt. Moreover, there is the potential for



a substantial charge against the social security trust funds if non-profit organizations should request a refund of the taxes paid over the past three years, as they are entitled to do under existing law.

H.R. 15571 is an attempt to correct this situation by providing that the payment of social security taxes by any such organization constitutes a retroactive "constructive filing" of the required certificate.

More specifically, H.R. 15571 provides that:

-- organizations which have been paying social security taxes but have not filed a waiver nor received a refund will be deemed to have filed the waiver and will continue paying as before. Coverage for participating employees will be validated.

-- organizations which have received a refund will have 180 days, after enactment of H.R. 15571, to file a waiver certificate voluntarily on behalf of those employees who want their coverage restored. The organization and its individual employees will be required to pay back the amount of refunds received, but will be permitted to do so in installments over an extended period.

-- organizations which have received a refund but do not file a new waiver within the 180-day period will be deemed to have filed such a waiver on the 181st day after enactment. The waiver will be deemed to cover all employees for whom social security taxes were paid, and the organization will be solely liable for both employer and employee taxes for the retroactive period.

IRS has indicated that, in the absence of legislation, it intends to notify all of the nonprofit organizations that have been paying social security taxes without having followed the technical requirements of the law and advise them to either accept a refund of such taxes for the last 3 years (the maximum refund period permitted by the statute of limitations), or to file a valid waiver certificate. HEW and the Congressional committees with jurisdiction in this area are concerned that the prospect of a 3-year refund of social security contributions would be a strong inducement for employees to take the refund and thereby lose their social security coverage.

There is also concern over the potential financial drain on the social security trust funds if substantial numbers of eligible non-profit organizations begin filing for refunds.

Agency Recommendations

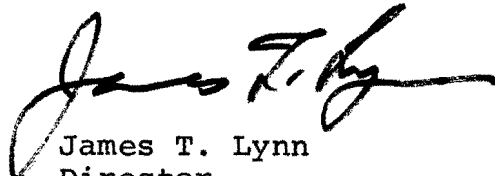
HEW strongly recommends approval of H.R. 15571. In its views letter, HEW states:

"Enactment of the enrolled bill would result in continuing the social security coverage of these employees... Administration of the provisions of the enrolled bill may place additional burdens on the Social Security Administration. Furthermore, we recognize that in any case in which a certificate is deemed to be filed, individual employees will lose the option of electing not to have social security coverage. Nevertheless, we believe, on balance, that the benefit of the enrolled bill--the provision of social security coverage to individuals who expected it--far outweighs any of the disadvantages."

Treasury states that H.R. 15571 would impose certain administrative responsibilities on IRS, but advises that they would not be "unreasonably burdensome." Treasury further notes that the repayment provisions of H.R. 15571 "may impose a substantial burden on some small charities which may have already expended the refund on charitable purposes and have limited revenues from which to make repayment." Treasury, however, does not object to approval of H.R. 15571.

* * * * *

We concur with the views expressed by HEW and, accordingly, recommend approval of H.R. 15571.


James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: noon

FOR ACTION: Spencer Johnson *on* cc (for information): Jack Marsh
 Max Friedersdorf *on* Ed Schmults
 Bobbie Kilberg *on* Steve McConahey *off*
 Paul Leach *on*

FROM THE STAFF SECRETARY

DUE: Date: October 18 Time: 930am

SUBJECT:

H.R.15571-Social Security contributions by non-profit organizations

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy o'haston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OCT 7 1976

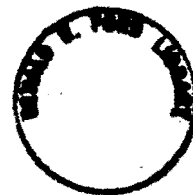
The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 15571, an enrolled bill "To amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate."

In summary we strongly recommend enactment of the enrolled bill.

Under current law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxation. When a waiver is filed, coverage may be provided retroactively for up to five years preceding the calendar quarter in which the waiver is filed. Each employee of the organization at the time the waiver certificate is filed is given the option to elect social security coverage and, if he decides to do so, must sign a form accompanying the certificate waiving his right to an exemption. All employees subsequently hired by the organization are automatically covered under the program. After a waiver certificate has been in effect for eight years, an organization may terminate its participation in the social security program by giving two years advance notice.



It has become apparent that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed valid waiver certificates. The Internal Revenue Service has determined that such nonprofit organizations and their employees are entitled to a refund of social security taxes paid during the period within the statute of limitations, and when a refund is made the social security credits earned by an organization's employees during the period are cancelled.

The enrolled bill would provide that in any case in which a nonprofit organization and its employees have paid social security taxes for at least three consecutive calendar quarters and have continued to do so within the statute of limitations period (three years, three months, and fifteen days) without having filed a valid waiver certificate, the organization will be deemed to have filed a waiver certificate, as well as a list of concurring employees representing those employees for whom social security taxes were paid, if no refund or credit of such taxes had been made prior to September 9, 1976.

In any case in which a nonprofit organization has received a refund or credit of erroneously paid social security taxes, it would be given 180 days after enactment of the bill to voluntarily file a certificate with a list of its employees who want to be covered under social security. If a certificate is filed voluntarily, it would be effective beginning with the first day of the period for which taxes were refunded or credited, or five years before the date the certificate is filed, whichever is later. Employees with respect to whom the refund or credit had been made would have the option of electing coverage and would be responsible for remitting the employee contribution owed to the social security trust funds.

In any case in which a nonprofit organization has received a refund or credit of erroneously paid social security taxes but does not voluntarily file a waiver certificate within 180 days after enactment of the bill, the organization would be deemed to have filed on the 181st day after enactment a waiver certificate for all employees for whom social security taxes were paid, and all of its employees would be deemed to have signed the list of concurring employees. A certificate which is deemed to have been filed by such an

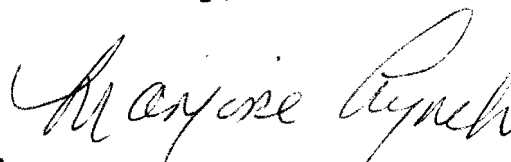
organization would be effective beginning with the first day of the period for which a refund or credit of erroneously paid taxes was made, or the first calendar quarter within the statute of limitations, whichever is later. Furthermore, such an organization would be solely liable for both employer and employee taxes for the retroactive period. The payment of retroactive taxes would be permitted to be made in installments, and the Internal Revenue Service would have discretion to establish any reasonable period for the payments of such taxes.

Under current law, a tax-exempt, nonprofit organization which has been erroneously paying social security taxes may file for a refund of such taxes without first providing an option to its employees to continue the coverage such employees expected they would have. In such instances, the employees who wanted and expected social security coverage would be left at a disadvantage, especially if they were relying upon social security coverage in their plans for retirement or disability protection. Even if an employee would be eligible for social security without credit for the period during which he was employed by the nonprofit organization, the credit the employee was expecting may nevertheless affect his potential benefit level.

Enactment of the enrolled bill would result in continuing the social security coverage of these employees with respect to the periods specified in the bill. Administration of the provisions of the enrolled bill may place additional burdens on the Social Security Administration. Furthermore, we recognize that in any case in which a certificate is deemed to be filed, individual employees will lose the option of electing not to have social security coverage. Nevertheless, we believe, on balance, that the benefit of the enrolled bill--the provision of social security coverage to individuals who expected it--far outweighs any of the disadvantages.

We therefore recommend that the President approve the enrolled bill.

Sincerely,



Under Secretary

FACT SHEET ON H.R. 15571

Under current law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxation. It has become apparent that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed valid waiver certificates. Any such organization which has been erroneously paying social security taxes may file for a refund of such taxes without first providing an option to its employees to continue the coverage that such employees expected they would have. In such instances, the employees who wanted and expected social security coverage would be left at a disadvantage, especially if they were relying upon social security coverage in their plans for retirement or disability protection.

The enrolled bill would have the effect of providing social security coverage to individuals with respect to whom erroneous contributions had been made. In certain instances nonprofit organizations would, under the bill, be deemed to have filed a certificate, while in other instances, such organizations would have 180 days from the date of enactment of the enrolled bill to voluntarily submit a certificate which would include the names of employees who wished social security coverage.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

OCT 08 1976

Dear Sir:

This is in response to your request for the views of this Department on the enrolled bill H.R. 15571 (the "Bill"). The Bill would amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate.

Large numbers of nonprofit organizations have been paying social security taxes without any legal obligation to do so since they have not filed the required certificate electing social security coverage for their employees. Many of these organizations have filed for refunds of these taxes, thus creating a drain on the Social Security Trust Fund and denying their employees social security coverage. The Act is intended to reverse these actions by organizations which have already filed for refunds and to prevent other organizations from so filing in the future.

Since the subject of the Bill involves Social Security matters, we defer to the views of the Department of Health, Education and Welfare with respect to its substance. The Bill would impose certain administrative responsibilities on the Internal Revenue Service and the Service has informed us that these responsibilities would not be unreasonably burdensome. Accordingly, the Treasury Department would have no objection to the approval of the Bill by the President.

We do, however, wish to note the following point. The Bill would require charities to repay to the government refunds of social security taxes which they had previously received (and, in addition, under certain circumstances to pay to the government an amount equal to the social

security taxes previously refunded to their employees). This may impose a substantial burden on some small charities which may have already expended the refund on charitable purposes and have limited revenues from which to make the repayment.

Sincerely yours,

A handwritten signature in cursive script that reads "Charles M. Walker".

Charles M. Walker
Assistant Secretary

Director, Office of Management and Budget
Attention: Assistant Director for Legislative
Reference, Legislative Reference Division
Washington, D.C. 20503

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: noon

FOR ACTION: Spencer Johnson
Max Friedersdorf
Bobbie Kilberg
Paul Leach

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 18 Time: 930am

SUBJECT:

H.R.15571-Social Security contributions by
non-profit organizations

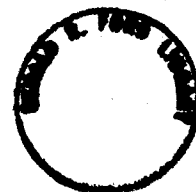
No objection -- Ken Lazarus 10/15/76

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

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Draft Reply

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Draft Remarks

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*Concur w/ approval
Jef*

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James M. Cannon
For the President

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Draft Remarks

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*Recommend.
Approval. mef*

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James M. Cannon
For the President



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15571 - Social security contributions by non-profit organizations
Sponsor - Rep. Mikva (D) Illinois and
Rep. Ottinger (D) New York

Last Day for Action

October 20, 1976 - Wednesday

Purpose

Validates social security coverage for employees of certain non-profit organizations and clarifies future social security coverage status of such employees.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of the Treasury	No objection

Discussion

Under current law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service (IRS) a certificate waiving its exemption from social security taxation. In recent years it has become apparent that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed valid waiver certificates.

This has led to a situation in which the continued social security coverage of the employees of these organizations is placed in doubt. Moreover, there is the potential for

To-
Johnston
10-14-76
11:30 a.m.

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 210 (a) (8) (B) of the Social Security Act is amended—

- (1) by inserting after “filed pursuant to section 3121(k) of the Internal Revenue Code of 1954” in the matter preceding clause (i) the following: “(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))”;
 - (2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”; and
 - (3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.
- (b) Section 3121(b)(8) of the Internal Revenue Code of 1954 (relating to exclusion of certain services from definition of employment) is amended—
- (1) by inserting after “filed pursuant to subsection (k) (or the corresponding subsection of prior law)” in the matter preceding clause (i) the following: “(or deemed to have been so filed under paragraph (4) or (5) of such subsection)”;
 - (2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”; and
 - (3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.
- (c) Section 3121(k) of such Code (relating to exemption of religious, charitable, and certain other organizations) is amended by adding at the end thereof the following new paragraphs:

“(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

“(A) In any case where—

“(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

“(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters,

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

“(B) Subparagraph (A) shall not apply with respect to any organization if—

“(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

“(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

“(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

“(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

“(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b) (8) (B) and section 210(a) (8) (B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c) (1) (B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary or his delegate.

“(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

“(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1) (A), and in paragraph (1) (C), shall apply to the extent prescribed by the Secretary or his delegate;

“(B) the provisions of paragraph (1) (E) shall not apply unless the taxes described in paragraph (4) (A) (ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

“(C) the action of the organization in obtaining the refund or credit described in paragraph (5) (A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

“(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5) (A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting

employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5) (A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

“(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5) (A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5) (B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary or his delegate, rather than in a lump sum.”

(d) The amendments made by this section shall apply with respect to services performed after 1950, to the extent covered by waiver certificates filed or deemed to have been filed under section 3121(k) (4) or (5) of the Internal Revenue Code of 1954 (as added by such amendments).

SEC. 2. Notwithstanding any other provision of law, no refund or credit of any tax paid under section 3101 or 3111 of the Internal Revenue Code of 1954 by an organization described in section 501(c) (3) of such Code which is exempt from income tax under section 501(a) of such Code shall be made on or after September 9, 1976, by reason of such organization's failure to file a waiver certificate under section 3121(k) (1) of such Code (or the corresponding provision of prior law), if such organization is deemed to have filed such a certificate under section 3121(k) (4) of such Code (as added by the first section of this Act).

SEC. 3. In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k) (5) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k) (1) of such Code, at any time prior to the period for which such certificate is effective;

(2) the taxes imposed by sections 3101 and 3111 of such Code were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k) (1) of such Code had been in effect) prior to September 9, 1976; and

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(3) any portion of such service (with respect to which taxes were paid and refunded or credited as described in paragraph (2)) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) of such Code a valid waiver certificate effective as provided in section 3121(k)(5)(B) thereof (with such individual's signature appearing on the accompanying list),

the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full repayment of the taxes which were paid under section 3101 of such Code with respect to such remuneration and so refunded or credited, be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code with respect to such remuneration and which were refunded or credited to it.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*