

Chicago 11, Illinois

JAN 9 - 1952

Mr. Kenaga

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Mr. Schreiber

Application of Section 5(1)(4) of the RRA in the
Reexamination of Survivor Cases

Your memorandum of December 29, 1951, presents three questions:

Question 1: Can we use the compensation reports of the Bureau of Wage and Service Records which show the compensation quarters of coverage in accordance with section 5(1)(4) prior to the amendments and on which the survivor awards are based?

Answer: I take it, in view of your reference to the "annuitant . . . not previously found to be insured on quarters of coverage" that your first question concerns persons who are "insured" at death, but solely by reason of status as an annuitant. The amendment to section 5(1)(4) expressly applies only to an employee who otherwise lacks a completely or partially insured status at death, however, so that the amendment should not be applied in the cases which you describe. Of course, in applying the social security minimum provided in section 3(e) of the Act as amended, the deceased employee will be deemed "fully" or "currently insured" under the SSA if he was "completely" or "partially insured" under the RRA, even though he would have had no "insured" status under the SSA if his service after 1936 had been "employment" under that Act; and the amount of the minimum should be calculated accordingly.

In view of the answer given to Question 1 it is unnecessary to answer your Question 2.

Your Question 3 is as follows:

Question 3: If it is found that the amended section 5(1)(4) must be applied in the reexamination of either of these types of cases, what will be the earliest computation point where the employee is found insured only by the use of the proration method?

Mr. Kenage

Answer: This question, I understand, is intended to apply only to an employee who would not be "insured" at death except for the application of the amendment to section 5(1)(4). As pointed out above, the amendment can apply only to determine "insured" status so that for all other purposes, including identification of quarters of coverage in determining what would be the "average monthly wage", quarters of coverage should be determined or identified without regard to the amendment. Thus, in the case you cite of the employee who had four quarters of coverage in 1939 and no other employment except in only one quarter in 1940, with total compensation of \$500, it would be considered that "insured" status was acquired in the last quarter of his employment, that is, the quarter of 1940 with which he would be credited apart from the application of the amendment to section 5(1)(4), and his compensation of \$500 earned in that quarter should be allocated to that quarter. Similarly, the employee who, you say, entered railroad service in the last calendar quarter of 1939 and earned \$300 in that quarter but would not be insured except for the amendment, should be treated as having only one quarter of coverage in 1939, and not four, in computing the "average monthly wage" and this \$300 earnings should be credited to that quarter.

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