Public Law 870 CHAPTER 821

August 1, 1956
[H. R. 11947]

AN ACT

To extend and amend the Renegotiation Act of 1951.

Renegotiation Amendments Act of 1956.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renegotiation Amendments Act of 1956".

65 Stat. 8.

SEC. 2. Section 102 of the Renegotiation Act of 1951 (50 U. S. C., App., sec. 1212) is amended by striking out "; but the provisions of this title shall not be applicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1956" in subsection (a); by relettering subsections (c) and (d) as (d) and (e), respectively; and by inserting after subsection (b) the following new subsection:

"(c) TERMINATION.—

"(1) IN GENERAL.—The provisions of this title shall apply only with respect to receipts and accruals, under contracts with the Departments and related subcontracts, which are determined under regulations prescribed by the Board to be reasonably attributable to performance prior to the close of the termination date. Notwithstanding the method of accounting employed by the contractor or subcontractor in keeping his records, receipts or accruals determined to be so attributable, even if received or accrued after the termination date, shall be considered as having been received or accrued not later than the termination date. For the purposes of this title, the term 'termination date' means December 31, 1958.

"Termination date".

"(2) TERMINATION OF STATUS AS DEPARTMENT.—When the status of any agency of the Government as a Department within the meaning of section 103 (a) is terminated, the provisions of this title shall apply only with respect to receipts and accruals, under contracts with such agency and related subcontracts, which are determined under regulations prescribed by the Board to be reasonably attributable to performance prior to the close of the status termination date. Notwithstanding the method of accounting employed by the contractor or subcontractor in keeping his records, receipts or accruals determined to be so attributable, even if received or accrued after the status termination date, shall be considered as having been received or accrued not later than the status termination date. For the purposes of this paragraph, the term 'status termination date' means, with respect to any agency, the date on which the status of such agency as a Department within the meaning of section 103 (a) is terminated."

65 Stat. 8.
50 USC 1213(a).

"Status termination date".

65 Stat. 8, 9.

SEC. 3. (a) Subsections (a) and (b) of section 103 of such Act (50 U. S. C., App., secs. 1213 (a) and (b)) are amended to read as follows:

"Department".

"(a) DEPARTMENT.—The term 'Department' means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, and the Atomic Energy Commission. Such term also includes any other agency of the Government exercising functions having a direct and immediate connection with the national defense which is designated by the President during a national emergency proclaimed by the President, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956; but such designation shall cease to be in effect on the last day of the month during which such national emergency is terminated.

"(b) SECRETARY.—The term 'Secretary' means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Commerce (with respect to the Maritime Administration), the Federal Maritime Board, the Administrator of General Services, the Atomic Energy Commission, and the head of any other agency of the Government which the President shall designate as a Department pursuant to subsection (a) of this section." "Secretary".

(b) The amendment made by subsection (a) shall take effect on December 31, 1956. Effective date.

SEC. 4. (a) Section 103 of such Act (50 U. S. C., App., sec. 1213) is amended by adding at the end thereof the following new subsection: 65 Stat. 11.

"(m) TWO-YEAR LOSS CARRYFORWARD.—

"(1) ALLOWANCE.—Notwithstanding any other provision of this section, the renegotiation loss deduction for any fiscal year ending on or after December 31, 1956, shall be allowed as an item of cost in such fiscal year, under regulations of the Board.

"(2) DEFINITIONS.—For the purposes of this subsection—

"(A) The term 'renegotiation loss deduction' means, for any fiscal year ending on or after December 31, 1956, the sum of the renegotiation loss carryforwards to such fiscal year from the preceding two fiscal years.

"(B) The term 'renegotiation loss' means, for any fiscal year, the excess, if any, of costs (computed without the application of this subsection and the third sentence of subsection (f)) paid or incurred in such fiscal year with respect to receipts or accruals subject to the provisions of this title over the amount of receipts or accruals subject to the provisions of this title which were received or accrued in such fiscal year, but only to the extent that such excess did not result from gross inefficiency of the contractor or subcontractor.

"(3) AMOUNT OF CARRYFORWARDS.—A renegotiation loss for any fiscal year (hereinafter in this paragraph referred to as the 'loss year') shall be a renegotiation loss carryforward to the first fiscal year succeeding the loss year. Such renegotiation loss, after being reduced (but not below zero) by the profits derived from contracts with the Departments and subcontracts in the first fiscal year succeeding the loss year, shall be a renegotiation loss carryforward to the second fiscal year succeeding the loss year. For the purposes of the preceding sentence, the profits derived from contracts with the Departments and subcontracts in the first fiscal year succeeding the loss year shall be computed as follows:

"(A) If such first fiscal year ends on or after December 31, 1956, such profits shall be computed by determining the amount of the renegotiation loss deduction for such first fiscal year without regard to the renegotiation loss for the loss year.

"(B) If such first fiscal year ends before December 31, 1956, such profits shall be computed without regard to any renegotiation loss for the loss year or any fiscal year preceding the loss year."

(b) The third sentence of section 103 (f) of such Act is amended by striking out "any fiscal year," and inserting in lieu thereof "any fiscal year ending before December 31, 1956,". 65 Stat. 9.

SEC. 5. (a) Section 105 (e) (1) of such Act (50 U. S. C., App., sec. 1215 (e) (1)) is amended to read as follows: 65 Stat. 15.

"(1) FURNISHING OF FINANCIAL STATEMENTS, ETC.—Every person who holds contracts or subcontracts, to which the provisions of this title are applicable, shall, in such form and detail as the

Board may by regulations prescribe, file with the Board, on or before the first day of the fifth calendar month following the close of his fiscal year, a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. The preceding sentence shall not apply to any such person with respect to a fiscal year if the aggregate of the amounts received or accrued under such contracts and subcontracts during such fiscal year by him, and all persons under control of or controlling or under common control with him, is not more than the applicable amount prescribed in subsection (f) (1) or (2) of this section; but any person to whom this sentence applies may, if he so elects, file with the Board for such fiscal year a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. The Board may require any person who holds contracts or subcontracts to which the provisions of this title are applicable (whether or not such person has filed a financial statement under this paragraph) to furnish any information, records, or data which are determined by the Board to be necessary to carry out this title and which the Board specifically requests such person to furnish. Such information, records, or data may not be required with respect to any fiscal year after the date on which all liabilities of such person for excessive profits received or accrued during such fiscal year are discharged. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of him under this subsection, or who knowingly furnishes any statement, information, records, or data pursuant to this subsection containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than one year, or both."

Penalty.

(b) The first sentence of section 105 (c) of such Act (50 U. S. C., App., sec. 1215 (c)) is amended to read as follows: "In the absence of fraud or malfeasance or willful misrepresentation of a material fact, no proceeding to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after a financial statement under subsection (e) (1) of this section is filed with the Board with respect to such year, and, in the absence of fraud or malfeasance or willful misrepresentation of a material fact, if such proceeding is not commenced prior to the expiration of one year following the date upon which such statement is so filed, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged."

65 Stat. 15.

(c) The second sentence of section 105 (c) of such Act (50 U. S. C., App., sec. 1215 (c)) is amended by striking out "then upon the expiration" and inserting in lieu thereof "then, in the absence of fraud or malfeasance or willful misrepresentation of a material fact, upon the expiration".

65 Stat. 15.

(d) The amendments made by subsections (a), (b), and (c) shall apply only with respect to fiscal years (as defined in section 103 (h) of such Act) ending after June 30, 1956.

50 USC app. 1213.

SEC. 6. (a) Section 105 (f) (1) of such Act (50 U. S. C., App., sec. 1215 (f) (1)) is amended by inserting after "after June 30, 1953" wherever appearing therein the following: ", or $1,000,000, in the case of a fiscal year ending after June 30, 1956".

65 Stat. 16; 68 Stat. 1116.

(b) Section 105 (f) (3) of such Act (50 U. S. C., App., sec. 1215 (f) (3)) is amended as follows:

65 Stat. 17; 68 Stat. 1116.

(1) by inserting in the second sentence thereof, after "the $500,000 amount," the following: "the $1,000,000 amount,"; and

(2) by adding at the end thereof the following: "In the case of a fiscal year beginning on or before the termination date and ending after the termination date, the $1,000,000 amount and the $25,000 amount shall be reduced to an amount which bears the same ratio to $1,000,000 or $25,000, as the case may be, as the number of days in such fiscal year before the close of the termination date bears to 365."

SEC. 7. (a) Section 105 (f) (3) of such Act (50 U. S. C., App., sec. 1215 (f) (3)) is further amended by striking out, in the first sentence, "for the purposes of paragraphs (1) and (2)" and inserting in lieu thereof "for the purposes of paragraph (1)". 65 Stat. 16.

(b) The amendment made by subsection (a) shall apply only with respect to fiscal years (as defined in section 103 (h) of such Act) ending on or after June 30, 1956. 50 USC app. 1213.

SEC. 8. (a) Section 106 (a) (7) of such Act (50 U. S. C., App., sec. 1216 (a) (7)) is amended by striking out "other than paragraph (8)" and inserting in lieu thereof "other than paragraph (1), (5), or (8)". 65 Stat. 17; 68 Stat. 1117.

(b) The amendment made by subsection (a) shall apply only with respect to subcontracts made after June 30, 1956.

SEC. 9. (a) Section 106 of such Act (50 U. S. C., App., sec. 1216) is amended by striking out paragraph (8) in subsection (a), and by adding at the end of such section the following new subsection: 68 Stat. 1117.

"(e) MANDATORY EXEMPTION FOR STANDARD COMMERCIAL ARTICLES AND SERVICES.—

"(1) ARTICLES AND SERVICES.—The provisions of this title shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service which (with respect to such fiscal year) is—

"(A) a standard commercial article;

"(B) an article which is identical in every material respect with a standard commercial article; or

"(C) a service which is a standard commercial service or is reasonably comparable with a standard commercial service.

"(2) CLASSES OF ARTICLES.—The provisions of this title shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article which (with respect to such fiscal year) is an article in a standard commercial class of articles.

"(3) APPLICATIONS.—Paragraph (1) (B) or (C) and paragraph (2) shall apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service only if—

"(A) the contractor or subcontractor at his election files, at such time and in such form and detail as the Board shall by regulations prescribe, an application containing such information and data as may be required by the Board under its regulations for the purpose of enabling it to make a determination under the applicable paragraph, and

"(B) the Board determines that such article or service is, or fails to determine that such article or service is not, an article or service to which such paragraph applies, within the following periods after the date of filing such application:

"(i) in the case of paragraph (1) (B) or (C), three months;

"(ii) in the case of paragraph (2), six months; or

"(iii) in either case, any longer period stipulated by mutual agreement.

"(4) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'article' includes any material, part, component, assembly, machinery, equipment, or other personal property;

"(B) the term 'standard commercial article' means, with respect to any fiscal year, an article—

"(i) which either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor, and

"(ii) from the sales of which by the contractor or subcontractor at least 35 percent of the receipts or accruals in such fiscal year, or of the aggregate receipts or accruals in such fiscal year and the preceding fiscal year, are not (without regard to this subsection and subsection (c) of this section) subject to this title;

"(C) an article is, with respect to any fiscal year, 'identical in every material respect with a standard commercial article' only if—

"(i) such article is of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications) as a standard commercial article from sales of which the contractor or subcontractor has receipts or accruals in such fiscal year,

"(ii) such article is sold at a price which is reasonably comparable with the price of such standard commercial article, and

"(iii) at least 35 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from sales of such article and sales of such standard commercial article are not (without regard to this subsection and subsection (c) of this section) subject to this title;

"(D) the term 'service' means any processing or other operation performed by chemical, electrical, physical, or mechanical methods directly on materials owned by another person;

"(E) the term 'standard commercial service' means, with respect to any fiscal year, a service from the performance of which by the contractor or subcontractor at least 35 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection) subject to this title;

"(F) a service is, with respect to any fiscal year, 'reasonably comparable with a standard commercial service' only if—

"(i) such service is of the same or a similar kind, performed with the same or similar materials, and has the same or a similar result, without necessarily involving identical operations, as a standard commercial service from the performance of which the contractor or subcontractor has receipts or accruals in such fiscal year, and

"(ii) at least 35 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from the performance of such service and such standard commercial service are not (without regard to this subsection) subject to this title; and

"(G) the term 'standard commercial class of articles' means, with respect to any fiscal year, two or more articles with respect to which the following conditions are met:

"(i) at least one of such articles either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

"(ii) all of such articles are of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications),

"(iii) all of such articles are sold at reasonably comparable prices, and

"(iv) at least 35 percent of the aggregate receipts or accruals in the fiscal year by the contractor or subcontractor from sales of all of such articles are not (without regard to this subsection and subsection (c) of this section) subject to this title.

"(5) WAIVER OF EXEMPTION.—Any contractor or subcontractor may waive the exemption provided in paragraphs (1) and (2) with respect to his receipts or accruals in any fiscal year from sales of any article or service by including a statement to such effect in the financial statement filed by him for such fiscal year pursuant to section 105 (e) (1), without necessarily waiving such exemption with respect to receipts or accruals in such fiscal year from sales of any other article or service. A waiver, if made, shall be unconditional, and no waiver may be made without the permission of the Board for any receipts or accruals with respect to which the contractor or subcontractor has previously filed an application under paragraph (3).

Ante, p. 787.

"(6) NONAPPLICABILITY DURING NATIONAL EMERGENCIES.—Paragraphs (1) and (2) shall not apply to amounts received or accrued during a national emergency proclaimed by the President, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956."

(b) Section 102 (d) of such Act is amended by striking out "section 106 (a) (8)" each place it appears and inserting in lieu thereof "section 106 (e)".

69 Stat. 447.
50 U S C app. 1212.

(c) The amendments made by this section shall apply only with respect to fiscal years (as defined in section 103 (h) of such Act) ending after June 30, 1956.

50 U S C app. 1213.

SEC. 10. Section 107 (c) of such Act (50 U. S. C., App., sec. 1217 (c)) is amended by striking out "subject to the Classification Act of 1949 (but without regard to the civil-service laws and regulations)" and inserting in lieu thereof "subject to the Classification Act of 1949 and the civil-service laws and regulations".

65 Stat. 20.

SEC. 11. (a) The next to the last sentence of section 108 of such Act (50 U. S. C., App., sec. 1218) is amended by inserting "only" after "section 105".

65 Stat. 21.

(b) The amendment made by subsection (a) shall be effective as of the date of the enactment of the Renegotiation Act of 1951.

Effective date.
50 U S C app. 1211 note.

SEC. 12. Such Act is amended by inserting after section 108 a new section as follows:

50 U S C app. 1218.

"SEC. 108A. VENUE OF APPEALS FROM TAX COURT DECISIONS IN RENEGOTIATION CASES.

"A decision of the Tax Court of the United States under section 108 of this Act may, to the extent subject to review, be reviewed by—

"(1) The United States Court of Appeals for the circuit in which is located the office to which the contractor or subcontractor

made his Federal income-tax return for the taxable year which corresponds to the fiscal year with respect to which such decision of the Tax Court was made, or if no such return was made for such taxable year, then by the United States Court of Appeals for the District of Columbia, or

"(2) any United States Court of Appeals designated by the Attorney General and the contractor or subcontractor by stipulation in writing."

65 Stat. 22.

SEC. 13. Section 113 of such Act (50 U. S. C. App., sec. 1223) is amended by striking out "during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953,".

SEC. 14. Such Act is amended by inserting after section 113 a new section as follows:

"SEC. 114. REPORTS TO CONGRESS.

"The Board shall on or before January 1, 1957, and on or before January 1 of each year thereafter, submit to the Congress a complete report of its activities for the preceding year ending on June 30. Such report shall include—

"(1) the number of persons in the employment of the Board during such year, and the places of their employment;

"(2) the administrative expenses incurred by the Board during such year;

"(3) statistical data relating to filings during such year by contractors and subcontractors, and to the conduct and disposition during such year of proceedings with respect to such filings and filings made during previous years;

"(4) an explanation of the principal changes made by the Board during such year in its regulations and operating procedures;

"(5) the number of renegotiation cases disposed of by the Tax Court, each United States Court of Appeals, and the Supreme Court during such year, and the number of cases pending in each such court at the close of such year; and

"(6) such other information as the Board deems appropriate."

Approved August 1, 1956.

Public Law 871 CHAPTER 822

August 1, 1956
[H. R. 6403]

AN ACT

To amend title 18, entitled "Crimes and Criminal Procedure", of the United States Code, to provide a criminal sanction for the embezzlement or theft of the property of Indian tribal organizations.

Indians.
Theft of tribal property.
62 Stat. 757.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 18, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1151 of such title the following new item:

"1163. Embezzlement and theft from Indian tribal organizations."

67 Stat. 588.

SEC. 2. Title 18, United States Code, is hereby amended by inserting in chapter 53 thereof immediately after section 1162 a new section, to be designated as section 1163, as follows:

"§ 1163. Embezzlement and theft from Indian tribal organizations

"Whoever embezzles, steals, knowingly converts to his use or the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or intrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization; or