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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

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The Administrator
Federal Security Agency

My dear Mr. Administrator:

Letter of the Acting Federal Security Administrator, dated March 27, 1951, presents for determination certain questions respecting the proper disposition of miscellaneous collections received by the Bureau of Old-Age and Survivors Insurance, Social Security Administration.

The collections in question apparently are moneys accruing in the ordinary day-to-day operations of the Bureau of Old-Age and Survivors Insurance, which, if received by a Federal agency supported by appropriated funds would normally be for credit, under general or specific law, to the general fund of the Treasury as miscellaneous receipts. Because the Bureau of Old-Age and Survivors Insurance is not financed with appropriated funds, but instead is administered with funds transferred from the Federal Old-Age and Survivors Insurance Trust Fund, the Acting Administrator's letter suggests that statutes directing receipt deposits to the general fund are not for application to the Bureau's collections, such contention being premised on the theory that all receipts incidental to, or resulting from, trust fund expenditures are returnable to the trust fund.

Specifically, it may be said that moneys credited to the accounts "1321 Commissions on Telephone Pay Stations in Federal Buildings Outside of Washington, D. C." and "1569 Unclaimed Funds and Abandoned Property, Not Otherwise Classified" listed in the Acting Administrator's letter are only remotely, if at all, identifiable with the trust operation. In neither case does the revenue result from trust fund expenditures; the account "1321" being the repository for receipts received in return for a privilege incident to the operation of a public building, and hence covered by the general provisions of Section 3617, Revised Statutes (14 Comp. Gen. 204) and the account "1569" being a consolidated classification embracing private funds which have been held by the accounting officers or required by specific statute to be forfeited to the United States in its sovereign capacity. Accordingly, it is my opinion that these two classes of income are required to be deposited into the Treasury as miscellaneous receipts under the indicated accounts.

With respect to the accounts,

4363 Sale of Photoduplications

4379 Sale of Scrap, Salvage, and Waste (by products),
Not Otherwise Classified

4554 Fees and Other Charges for Copying and Printing
Services

5195 Sale of Scrap and Salvaged Surplus Materials

5196 Sale of Equipment

5511 Recoveries for Government Property Lost or Damaged,
Not Otherwise Classified,

listed in the Acting Administrator's letter, the relationship of the receipts accruing thereto is clearly identifiable with trust expenditures, since it appears that all administrative expenses of the Bureau of Old-Age and Survivors Insurance are paid from trust funds. Therefore, such moneys may be credited to the trust fund which bore the costs of acquisition or production. Question No. 1 presented in the letter of March 27, 1951, is answered accordingly.

The accounts,

5571 Recoveries, Jury Service

5590 Repayments, Lapsed Appropriations

5595 Refund of Terminal Leave Compensation,

listed in the Acting Administrator's letter, while identifiable with the trust fund operation, are covered by specific statutes either directing or implying the deposit of collections thereunder into the Treasury as miscellaneous receipts. Accordingly, it is necessary to examine the pertinent statutes in relation to the moneys which they affect before determination can be made as to their applicability to the classes of income here under consideration.

The account "5590" was established under authority of the Act of April 25, 1945, 59 Stat. 90, which provides in pertinent part:

"* * * hereafter any collection which otherwise would be for depositing to the credit of an appropriation where such appropriation has lapsed and the balance reverted to the surplus fund shall be deposited for covering into the general fund of the Treasury as miscellaneous receipts." (Underscoring supplied.)

Funds are made available to the Bureau of Old-Age and Survivors Insurance by transfers authorized annually from the trust fund account "2018006-Federal Old-Age and Survivors Insurance Trust Fund." The accounts to which transfers are made (75 8704 Salaries and Expenses, Bureau of Old-Age and Survivors Insurance, Social Security Administration, Fiscal Year) are restricted to the same period of availability as ordinary annual appropriations from the general fund of the Treasury. It is understood that both prior and subsequent to the enactment of the Surplus Fund-Certified Claims Act of 1949, approved July 6, 1949, 63 Stat. 407, the unexpended balances under the lapsed accounts "75 8704" have been returned to the trust fund account "2018006." Without, at this time, passing upon the propriety of returning the "obligated" funds which would be included in the "unexpended" balances, to the trust fund "2018006," you may be advised that since repayments to the lapsed accounts undoubtedly would represent unobligated balances, such repayments may be credited to the trust fund account "2018006."

The account "5571" was authorized by the Act of June 29, 1940, 54 Stat. 689, providing in pertinent part as follows:

"Sec. 3. There shall be credited against the compensation payable by the United States to any employee specified in section 1 for such period as such employee may be absent on account of jury service in the court of any State any amounts which such employee may receive from such State on account of such jury service."

The obvious purpose of the foregoing enactment is to permit the United States as an employer to recoup in part for the loss of services of its employees occasioned by their assignment to jury duty in State courts. Usually, Federal employees are paid from funds appropriated from the general fund of the Treasury and such circumstance was the principal contributing factor in the application of section 3617, Revised Statutes, to collections made under section 3 of the 1940 Act. However, in the case of employees paid from trust funds, it is the trust fund which has suffered the loss and accordingly, reimbursements on account of jury service of employees of the Bureau of Old-Age and Survivors Insurance should be treated as trust fund accruals.

The act of December 21, 1944, 58 Stat. 845, authorizing the establishment of the account "5595", provides in part:

"That if such [separated] employee is reemployed in the Federal service or in or under the government of the District of Columbia under the same leave system prior to the expiration of the period covered by such leave payment, he shall refund to the employing agency an amount equal to the compensation covering the period between the date of re-employment and the expiration of such leave period, and the amount of

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leave represented by such refund shall be credited to him in the employing agency. In the case of reemployment in the Federal service the sum so refunded shall be covered into the Treasury as 'Miscellaneous Receipts', and in the case of reemployment in or under the government of the District of Columbia the sum so refunded shall be covered into the Treasury to the credit of the District of Columbia: * * * (Brackets supplied.)

Except in the case of reemployment in or under the government of the District of Columbia, the quoted act requires that all refunds of terminal leave payments be covered into the Treasury as miscellaneous receipts. In enacting such law, it must be presumed that the Congress was fully aware of the fact that certain employees would be reemployed under circumstances such as those considered herein. Accordingly, and since there appears to be no other law directing a different disposition of these collections in the case of the Bureau of Old-Age and Survivors Insurance, refunds of terminal leave payments are for deposit into the Treasury as miscellaneous receipts under the account designation "5595."

I trust that the foregoing supplies answers to Question Nos. 1 and 2 raised in the Acting Administrator's letter. With respect to Question No. 3, I have to advise that with the exception of repayments under lapsed appropriations, which as herein stated should be credited to "20K8006 Federal Old-Age and Survivors Insurance Trust Fund," this Office will not be required to object to the use of the account "8006.1 Deposits, Federal Old-Age and Survivors Insurance Trust Fund" in accounting for proper accruals to such trust fund. However, under the provisions of paragraph 2 of General Regulations No. 84-Second Revision, dated November 24, 1950, the Treasury Department is responsible for the assignment of receipt accounts and it is suggested that the expanded use of such account be discussed with officials of that Department. With respect to the proper prefixing of receipt symbols, paragraph 5, General Regulations No. 84-Second Revision provides for the identification of receipts with the agency making the collection, and accordingly, you are advised that collections for the account "8006.1" should be prefixed by "75" to denote the Federal Security Agency.

With respect to the general fund receipt accounts discussed herein, your attention is invited to Treasury Department "Announcement of Accounting Symbols and Titles Revised" No. 207 dated May 1, 1951, which revises general receipt account symbolizations effective July 1, 1951.

Sincerely yours,

Comptroller General
of the United States