



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

October 30, 2018

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: BNSF Railway Company v. Loos, No. 17-1042

Dear Mr. Harris:

The government writes to advise the Court that several sentences in its amicus brief erroneously cite *Section 2* of the Act of July 31, 1946 as making changes to the Railroad Retirement Tax Act (RRTA), instead of *Section 3* of the 1946 statute.

Specifically, the statement (Br. 5) that the 1946 statute “replaced language requiring each railroad employee to pay taxes on ‘compensation * * * earned by’ the employee with language requiring the employee to pay taxes on compensation ‘paid to’ the employee” should be followed by a citation of *Section 3(a)* of the 1946 statute, 60 Stat. 723, instead of *Section 2*, 60 Stat. 722, which modified the companion benefits statute known as the Railroad Retirement Act (RRA). Similarly, the statements (Br. 5) that the 1946 statute created “a ‘presum[ption]’ that compensation was earned in the period in which it was paid” and provided “additional guidance concerning when employers’ payments should be deemed to be for ‘time lost’” should be followed with a citation of *Section 3(f)*, 60 Stat. 725, which amended the RRRA, in addition to the brief’s citation of *Section 2*, which made parallel changes to the RRA. Page 26 also erroneously cites *Section 2*, instead of *Section 3(f)*, for the latter changes to the RRRA.

I would appreciate it if you would circulate this letter to the Members of the Court.

Sincerely,

Noel J. Francisco
Solicitor General

cc: See Attached Service List

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