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Reporting Events That Can Affect Railroad Retirement Benefits

Rights to benefits under the Railroad Retirement Act also carry responsibilities for reporting events that may affect the payment of these benefits to the employee or to members of the employee's family. If these events are not reported to an RRB field office, benefit overpayments can occur that have to be repaid, sometimes with interest and penalties. It is important to know that knowingly making a false or fraudulent statement or withholding information to receive benefits is a crime under Federal law which may be punishable by fines, imprisonment, or both.

Events that can affect the payment of a railroad retirement annuity and result in overpayments if not promptly reported to agency field offices include:

- entitlement to social security or certain other benefits, and changes in the amount of such benefit payments;
- post-retirement work activity and the receipt of earnings by age and service annuitants;
- post-retirement work activity, whether earnings are received or not, by disability annuitants;
- the death of an annuitant;
- a change in marital status;
- a child leaving the care of a spouse or widow(er);
- a student ceasing full-time school attendance.

The following questions and answers describe how these events affect railroad retirement benefits and what should be done to prevent overpayments.

1. How can the awarding of social security benefits result in a railroad retirement annuity overpayment?

The tier I portion of a railroad retirement annuity is based on both the railroad retirement and social security credits acquired by an employee and figured under social security formulas. It approximates what social security would pay if railroad work were covered by social security. Tier I benefits are, therefore, reduced by the amount of any actual social security benefit paid on the basis of nonrailroad employment, in order to prevent a duplication of benefits based on the same earnings.

The tier I dual benefit reduction also applies to the annuity of an employee qualified for social security benefits on the earnings record of another person, such as a spouse. In addition, the tier I portion of a spouse, divorced spouse, or survivor annuity is reduced for **any** social security entitlement, even if the social security benefit is based on the spouse's, divorced spouse's, or

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survivor's own earnings. These reductions follow principles of social security law which limit payment to the higher of any two or more benefits payable to an individual at one time.

If a railroad retirement annuitant is also awarded a social security benefit, in most cases a combined monthly dual benefit payment will be issued by the Railroad Retirement Board (RRB). The Social Security Administration determines the amount of the social security benefit due, and the RRB determines the amount of the railroad retirement annuity due. (As stated above, the tier I portion of a railroad retirement annuity is reduced by the amount of the social security benefit due.)

A person should notify an RRB field office when filing for social security benefits. If the Social Security Administration begins paying benefits directly to a railroad retirement annuitant without the RRB's knowledge, a tier I overpayment will occur. This frequently happens when a railroad employee's spouse or widow(er) is awarded social security benefits not based on the employee's earnings.

Also, annuitants who are receiving their social security benefits directly from the Social Security Administration must notify an RRB field office if their social security benefits are subsequently increased for any reason **other** than annual cost-of-living increases, such as a recomputation to reflect post-retirement earnings. Since such recomputations are usually retroactive, they can result in substantial tier I overpayments.

While social security benefit information is provided to the RRB as a result of routine information exchanges between the RRB and the Social Security Administration, it will generally not be provided in time to avoid such a benefit overpayment.

2. What other types of benefit payments, besides social security benefits, require dual benefit reductions in a railroad retirement annuity?

For **employees** eligible for a railroad retirement annuity **and** a Federal, State or local government pension, there may be a reduction in tier I for receipt of a public pension based, in part or in whole, on employment not covered by social security or railroad retirement after 1956. This may also apply to certain other payments not covered by social security, such as payments from a non-profit organization or from a foreign government or a foreign employer. However, it does not include military service pensions, payments by the Department of Veterans Affairs, or certain benefits payable by a foreign government as a result of a totalization agreement between that government and the United States.

The tier I portion of a **spouse** or **widow(er)'s** annuity may also be reduced for receipt of any Federal, State or local government pension separately payable to the spouse or widow(er) based on her or his own earnings. The reduction generally does not apply if the employment on which the public pension is based was covered under the Social Security Act throughout the last 60 months of public employment. In addition, most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction. Pensions paid by a foreign government or interstate instrumentality will also not cause a reduction.

If an employee is receiving a **disability** annuity, tier I benefits for the employee and spouse may, under certain circumstances, be reduced for receipt of workers' compensation or public disability benefits.

If annuitants become entitled to any of the above payments, or if there is any question as to whether a payment requires a reduction in their annuities, they should promptly notify an RRB field office.

3. Can post-retirement work activity and earnings cause railroad retirement overpayments?

Unreported post-retirement work activity and earnings in nonrailroad employment (including self employment) are a major cause of overpayments in railroad retirement annuities. Like social security benefits, railroad retirement tier I benefits paid to employees and spouses, plus tier I, and tier II benefits paid to survivors, are subject to deductions if post-retirement earnings exceed certain exempt amounts, which increase annually. *(For information on how post-retirement work activity and earnings affect disability annuitants, please see Question 4.)*

These earnings deductions do not apply to those who have attained full social security retirement age. Under the Social Security Act, full retirement age for employees and spouses is age 66 for those born from 1943 through 1954 and gradually increases to age 67 for those born in 1960 or later. Full retirement age for survivor annuitants ranges from age 66 for those born from 1945 through 1956 to age 67 for those born in 1962 or later.

For those under full retirement age throughout 2021, the exempt earnings amount is \$18,960. It rises to \$19,560 in 2022. For beneficiaries attaining full retirement age in 2021, the exempt earnings amount is \$50,520 for the months before the month full retirement age is attained. In 2022, the exempt earnings amount will be \$51,960. Prior to the calendar year in which full retirement age is attained, the earnings deduction is \$1 in benefits for every \$2 of earnings over the exempt amount. For those attaining full retirement age during a calendar year, the deduction is \$1 for every \$3 of earnings over the exempt amount in the months before the month full retirement age is attained.

Annuitants who work after retirement and expect that their earnings for a year will be more than the annual exempt amount must promptly notify an RRB field office and furnish an estimate of their expected earnings. This way their annuities can be adjusted to take the excess earnings into consideration and prevent an overpayment. Annuitants whose original estimate changes significantly during the year, either upwards or downwards, should also notify the RRB.

Retired employees and spouses, regardless of age, who work for their last pre-retirement nonrailroad employer are also subject to an earnings deduction in their tier II and railroad retirement supplemental annuity benefits, if applicable, of \$1 for every \$2 in earnings up to a maximum reduction of the lesser of 50 percent of the earnings or tier II and supplemental benefits combined. This earnings restriction does not change from year to year and does not allow for an exempt amount. Retired employees and spouses should therefore promptly notify an RRB field office if they return to employment for their last pre-retirement nonrailroad employer, or if the amount of their earnings from such employment changes.

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A spouse benefit is subject to reductions not only for the spouse's earnings, but also for the earnings of the employee, regardless of whether the earnings are from service for the last pre-retirement nonrailroad employer or any other post-retirement employment. An annuity paid to a divorced spouse may continue despite the employee's work activity. However, the employee's non-railroad earnings over the annual earnings exempt amount may reduce a divorced spouse benefit.

4. How do post-retirement work activity and earnings affect disability annuities?

Any work performed by a disabled annuitant - whether for payment or not - may be considered an indication of recovery from disability, and, therefore, must be reported promptly to an RRB field office to avoid potential overpayments.

In addition, special restrictions limiting earnings to \$1,020 per month in 2021, exclusive of disability-related work expenses, apply to disabled railroad retirement employee annuitants. In 2022, this amount rises to \$1,050. These disability work restrictions apply until the disabled employee annuitant attains full retirement age which, as stated earlier, ranges from age 66 to age 67, depending on the year of birth. These work restrictions apply even if the annuitant has 30 years of railroad service. Also, a disabled employee annuitant who works for his or her last pre-retirement nonrailroad employer would be subject to the additional earnings deduction that applies in these cases.

5. What effect does railroad work have on an annuity?

No railroad retirement annuity is payable for any month in which an employee, spouse or survivor annuitant performs compensated service for a railroad or railroad union. This includes local lodge compensation for more than \$24.99 in a calendar month, and work by a local lodge or division secretary collecting insurance premiums, regardless of the amount of salary.

6. What should be done when a railroad retirement annuitant dies?

An RRB field office should be notified immediately upon the death of any retirement or survivor annuitant. Payment of a railroad retirement annuity stops upon an annuitant's death and the annuity is not payable for any day in the month of death. This is true regardless of how late in the month death occurs and there is no provision for prorating such a payment. Any payments received after the annuitant's death must be returned. The sooner the RRB is notified, the less chance there is of payments continuing and an overpayment accruing. The RRB would also determine whether any survivor benefits due are payable by the RRB or the Social Security Administration.

7. What are some other events that can affect payments to auxiliary beneficiaries, such as spouses, divorced spouses, and widow(er)s?

A spouse or divorced spouse must immediately notify an RRB field office if the railroad employee upon whose service the annuity is based dies. A spouse must notify the RRB if her or his marriage to the railroad employee ends in divorce or annulment and a widow(er) or divorced spouse must notify the RRB if she or he remarries.

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Also, benefits paid to spouses, widow(er)s and surviving divorced spouses that are based on the beneficiary caring for the employee's unmarried child are normally terminated by the RRB when the child attains age 18 (age 16 for a surviving divorced spouse) **or** if a disabled child over age 18 (age 16 for a surviving divorced spouse) recovers from the disability. Therefore, the RRB must be notified if the child leaves the beneficiary's care or marries.

Benefits are also payable to an unmarried child age 18 in full-time attendance at an elementary or secondary school or in approved home schooling until the student attains age 19, or the end of the school term in progress when the student attains age 19. (In most cases where a student attains age 19 during the school term, benefits are limited to the two months following the month age 19 is attained.) These benefits will be terminated earlier if the student marries, graduates, or ceases full-time attendance. Therefore, the RRB must be notified promptly to prevent an overpayment.

8. Can an annuitant contest a decision that he or she has been overpaid?

Annuitants who believe a decision regarding a benefit overpayment is incorrect may ask for reconsideration and/or waiver of the overpayment. If not satisfied with the result of the initial review, the annuitant may appeal to the RRB's Bureau of Hearings and Appeals. Further appeals can be carried to the three-member Board itself, and beyond the Board to Federal courts.

Annuitants are told about these appeal rights any time a decision is made regarding a benefit overpayment.

9. How can an annuitant find out if an event might affect his or her railroad retirement benefit payments?

In any situation, the best rule is "If in doubt, report." Individuals with questions about whether an event will affect their benefit payments or who want to notify the RRB about such an event can send a secure message to **their local RRB office** by accessing Field Office Locator at **RRB.gov** and clicking on the link at the bottom of their local office's page. If a customer needs to talk to an RRB representative, they can call the agency's toll-free number (1-877-772-5772) between the hours of 9 a.m. and 3 p.m. each weekday, except Federal holidays. However, customers are asked to be patient because of the increase in call volume due to the closure to the public of RRB offices during the COVID-19 pandemic.

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