



Legal Opinion L-2005-19
July 27, 2005

U.S. Railroad Retirement Board
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TO : Catherine A. Leyser
Director of Assessment and Training

FROM : Steven A. Bartholow
General Counsel

SUBJECT : Annuity Beginning Dates in Full Retirement Age Cases

You have requested a legal opinion to explain the legal basis for the establishment of the annuity beginning date (ABD) of a full age retirement annuity on the first day of the month in which a railroad employee attains full retirement age.

Section 5 of the Railroad Retirement Act provides in pertinent part that:

- (a) Subject to the limitations set forth below, an annuity under section 2 of this Act shall begin with the month in which eligibility therefore was otherwise acquired, but –

* * * * *

(iii) (D) in the case of an applicant otherwise entitled to an annuity under section 2(a)(1) or 2(c), the first day of the first month throughout which the applicant meets the age requirement for the annuity applied for.

* * * * *

For the purpose of determining annuity amounts provided under sections 3(a), 4(a), and 4(f) of this Act, the provisions with respect to the beginning dates of annuities set forth in this subsection shall be deemed to govern the beginning dates of monthly benefits provided under the Social Security Act (45 U.S.C. §231d(a))

Subparagraph 5(a)(iii)(D) and the last sentence quoted above were added to section 5 of the RRA in 1983 by section 103 of the Railroad Retirement Solvency Act, P.L. 98-76. The House report on that legislation states that the amendments made by section 103 were intended to more clearly conform the Railroad Retirement Act to the Social Security Act, noting in part that:

“As a final point, the amendment made by section 103(a)(3) would provide that any differences which continue to exist between the benefit beginning dates provided under the Social Security Act and the Railroad Retirement Act would be disregarded in determining entitlement to, and the amounts of, tier I annuities payable under the Railroad Retirement Act.” (H.R. Rep. No. 30, 98th Cong. 1st Sess., Part 1, p. 48 (1983).)

The differences in annuity beginning dates referenced in the House Report stemmed from 1981 amendments to the Social Security Act. Section 2203 of Public Law 97-35 amended section 202 of the Social Security Act to provide that certain benefits under that Act, including an old age insurance benefit for an individual who has attained age 62 but not age 65 (which was then full retirement age), would not begin until the first day of the month in which the individual met the requirements for entitlement for the entire month. Thus, for example, if an individual attained age 62 on the fifteenth of June, his/her social security benefit could not begin until July 1. P.L. 97-35 did not change the benefit beginning date for an individual who had attained age 65, which was then full retirement age.¹

¹ Section 2203(a) of P.L. 97-35 provided that:



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In Legal Opinion L-81-205, issued November 13, 1981, the General Counsel concluded that the amendment made by section 2203 generally did not affect the beginning date of annuities under the Railroad Retirement Act, but would impact the computation of certain annuities. In the example of the individual who attained age 62, the annuity beginning date under the Railroad Retirement Act would be June 1, but the amount computed under sections 3(a)(1) and 4(a)(1) of the Railroad Retirement Act would be zero for that first month, since those sections provide for computation of an amount that would have been payable under the Social Security Act based on the same earnings record.

As noted earlier in this discussion, one of the purposes of the 1983 amendments to the Railroad Retirement Act was to conform the provisions governing annuity beginning dates to provisions in the Social Security Act. Thus, with enactment of P.L. 98-76, the annuity beginning date for a reduced age annuity was the first month throughout which the annuitant met the age eligibility requirement. No change was made in the annuity beginning date for a full age annuitant, whose ABD continued to be the month in which full retirement age was attained (assuming all other eligibility requirements were met).

The current section 202 of the Social Security Act continues to make a distinction between individuals who have attained "retirement age" [formerly "age 65"] and those who have attained age 62, but have not yet attained "retirement age". Specifically, section 202(a) provides in pertinent part that:

Every individual who –

- (1) is a fully insured individual (as defined in section 414(a) of this title,
- (2) has attained age 62, and
- (3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained retirement age (as defined in section 416(l) of this title, shall be entitled to an old-age insurance benefit for each month, beginning with –
 - a. in the case of an individual who has attained retirement age (as defined in section 416(l) of this title), the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3) or
 - b. in the case of an individual who has attained age 62, but has not attained retirement age (as defined in section 416(l) of this title), the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3), and ending with the month preceding the month in which he dies.

Under section 202, an insured individual may become entitled to a full age benefit upon attainment of "retirement age." An insured individual who has not attained retirement age, but who has attained age 62, may also become entitled to a benefit, but only

"Section 202(a) of the Social Security Act is amended by striking out so much of the first sentence as follows paragraph (3) and inserting in lieu thereof the following:

'shall be entitled to an old-age insurance benefit for each month, beginning with –

(A) in the case of an individual who has attained age 65, the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3), or

(B) in the case of an individual who has attained age 62, but has not attained age 65, the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3)), and ending with the month preceding the month in which he dies.'" 95 Stat. 835.



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beginning with the first full month throughout which the individual meets the eligibility requirements. Under section 5 of the Railroad Retirement Act, as amended in 1983, the annuity beginning date for a railroad retirement employee-annuitant is determined the same way.