

**For Use With  
Survivor Annuity  
Applications**

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# **Survivor Annuities**

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***United States of America  
Railroad Retirement Board***

***Visit Our Web site at <http://www.rrb.gov>***

**FORM RB-17 (07-04)**

# INTRODUCTION

This booklet contains important information regarding your railroad retirement annuity. We recommend that you read it before contacting our office to file an application.

Your railroad retirement annuity is affected by certain “events” that may occur. A description of these events and an explanation of how you should report them is covered in the booklet *RB-9s, Events That Affect A Survivor Annuity*. Because these events can take place any time after you receive your annuity payments, you should keep this booklet and the RB-9s booklet for future reference. Remember, these events can affect the amount of your payments and whether or not you are eligible to receive them for certain months.

In this booklet, these terms are used in the following ways:

- Employee - the person who worked for the railroad.
- Applicant - the person who is applying to receive an annuity based on the employee’s railroad work.
- Widow(er) - the employee’s widow, widower, or surviving divorced spouse who may be eligible to receive a widow(er)’s annuity.
- Spouse - a person entitled to a spouse annuity or divorced spouse annuity in the month the employee died.
- Full Retirement Age - the age at which you become eligible to receive a full, unreduced for age, annuity.
  1. For widow(er) type annuitants born January 1, 1940, and earlier, full retirement age is 65.
  2. For widow(er) type annuitants born January 2, 1940, and later, with annuity beginning dates of January 1, 2000, and later, full retirement age is based on the year of birth as shown below.

<u>If your date of birth is</u>	<u>then your Full Retirement Age is</u>
1-2-40 through 1-1-41	65 and 2 months
1-2-41 through 1-1-42	65 and 4 months
1-2-42 through 1-1-43	65 and 6 months
1-2-43 through 1-1-44	65 and 8 months
1-2-44 through 1-1-45	65 and 10 months
1-2-45 through 1-1-57	66
1-2-57 through 1-1-58	66 and 2 months
1-2-58 through 1-1-59	66 and 4 months
1-2-59 through 1-1-60	66 and 6 months
1-2-60 through 1-1-61	66 and 8 months
1-2-61 through 1-1-62	66 and 10 months
1-2-62 or later	67

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## Part I Applying For Your Annuity

### Section 1 - Requirements The Employee Must Have Met

The Railroad Retirement Board (RRB) can pay a survivor annuity only if the employee:

- was employed in the railroad industry for at least 120 months or at least 60 months after 1995; and
- had a current connection with the railroad industry; that is, there was no regular employment outside of the railroad industry between the time when the employee left the railroad industry and the time of retirement (or death if the employee never retired).
- If the employee was alive on October 1, 1981, we will consider that there is a current connection with the railroad industry, if the employee:
  - stopped working in the railroad industry involuntarily and without cause on or after October 1, 1975; and
  - had at least 25 years of service; and
  - did not decline an offer to return to work in the same class or craft as his or her last railroad service.

### Section 2 - What Happens If The Employee Does Not Meet The Requirements

If the employee does not meet the requirements described in Section 1, the RRB cannot pay a survivor annuity. However, the Social Security Administration (SSA) might be able to pay you and we will transfer your application to that agency. Therefore, you should still file an application.

Your annuity can be paid by either the RRB or SSA but not both, even though the employee may have received payments from both agencies while he or she was alive. No matter which agency pays your annuity, all the employee's work in the railroad industry or under Social Security, will be used to calculate the amount of your payments.

## Part II Types of Annuities

### Section 3 - Definition Of A Widow(er)'s Annuity

An eligible widow(er) is a:

- widow(er) - a person who was married to the employee at the time of death;
- remarried widow(er) - a person who was married to the employee at the time of death and has since remarried; or
- surviving divorced spouse - a person who was married to the employee for at least 10 years and was finally divorced from the employee.

Each of these groups of widow(er) have different requirements concerning marriage to the employee, as well as any remarriages. However, all widow(er)s have the same age requirement. (Refer to the appropriate sections in Part III for marriage and age requirements.)

If you are age 50 and a disability keeps you from earning money from working, you may file for a Disabled Widow(er)'s annuity.

**NOTE:** A widow(er) who is currently receiving a spouse annuity does not need to file an application. Refer to Part V, Section 21, for additional information.

### Section 4 - Definition Of A Mother's/Father's Annuity

A Mother's/Father's annuity is payable to a widow(er) who is caring for the employee's minor child (under age 18) or disabled child (age 18 or over and disabled before age 22) who is entitled to a Child's annuity.

A Surviving Divorced Mother's/Father's annuity is payable to an individual who is finally divorced from the employee and has in his or her care the employee's minor child (under age 16) or disabled child (age 16 or over and disabled before age 22) who is entitled to a Child's annuity. **NOTE:** A surviving divorced mother/father does not have to meet the same 10-year marriage requirement as a surviving divorced spouse.

A Remarried Mother's/Father's annuity is payable to a surviving legal or defacto spouse who has remarried after the employee's death but is now unmarried and has in his or her care the employee's minor child (under age 16) or disabled child (age 16 or over and disabled before age 22) who is entitled to a Child's annuity. The unmarried requirement is also met if the spouse remarried after attaining age 60.

Applicants for the above annuities must meet marriage and child-in-care requirements. No age requirement must be met.

If there is no child who is entitled to a Child's annuity, a Mother's/Father's annuity cannot be paid.

In addition, the child's relationship to the mother/father (stepchild, grandchild, etc.) may determine whether the Mother's/Father's annuity can be paid.

### **Section 5 - Definition Of A Child's Annuity**

In order for a child to qualify for an annuity, the child must be unmarried, under age 18, and related to the employee as a:

- natural child;
- stepchild;
- legally adopted child;
- deemed child (a child who was born of an invalid ceremonial marriage who would not have any rights under the state law for inheriting the employee's property);
- equitably adopted child (a child who was never legally adopted by the employee);
- grandchild or step-grandchild, if the child's parents are deceased or disabled or the child was adopted by the employee's surviving spouse. There are also dependency requirements that a grandchild must meet before an annuity can be paid. These requirements can be explained to you by the personnel at the nearest field office.

### **Section 6 - Definition Of A Student's Annuity**

You may be paid a Student's annuity if you:

- are unmarried, age 18, and attending elementary or secondary school full-time;
- meet the requirements to qualify as a child of the employee; and
- meet the age, attendance, and school requirements to qualify you as a full-time student.

NOTE: A student who is currently receiving a Child's annuity does not need to file an application.

### **Section 7 - Definition Of A Parent's Annuity**

Any person described below who is at least 60 years old and was receiving one-half support from the employee before the employee died, is considered an eligible parent who may file an application.

- The employee's natural parent;
- the employee's stepparent, if the stepparent married the employee's natural parent before the day the employee reached age 16; or
- the person who adopted the employee, if the adoption took place before the employee reached age 16.

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## **Part III Requirements For An Annuity**

### **Section 8 - Marriage Requirements For A Widow(er) Or Mother/Father**

In order to be considered a widow(er) or mother/father, you must:

- be the legal widow(er) of the employee;
- have been married to the employee for at least 9 full months before the employee's death. You must not have been divorced from the employee at the time of death.

- If you were not married to the employee for at least 9 full months you should contact the nearest Railroad Retirement Board (RRB) office. There are a few specific exceptions to the 9-month marriage requirement which the personnel in that office will explain to you; and
- have not remarried since the employee's death.

You must provide proof of your marriage to the employee. Refer to Part IV, Section 15, for further information.

### **Section 9 - Marriage Requirements For A Remarried Widow(er) Or Remarried Mother/Father**

In order to be considered a remarried widow(er) or remarried mother/father, you must:

- be the legal widow(er) of the employee;
- have been married to the employee for at least 9 full months before the employee's death. You must not have been divorced from the employee at the time of death.
- If you were not married to the employee for at least 9 full months you should contact the nearest RRB office. There are a few specific exceptions to the 9-month marriage requirement which the personnel in that office will explain to you; and
- not be currently married, unless you remarried after age 60 (age 50 if you were entitled to a Disabled Widow(er)'s annuity before the remarriage occurred).

In addition to proof of your marriage to the employee, if you have remarried since the employee's death, and your remarriage(s) occurred before you attained age 60 (age 50 if you were previously entitled to a Disabled Widow(er)'s annuity before the remarriage(s) occurred), you must furnish proof that the later marriage(s) has terminated.

### **Section 10 - Marriage Requirements For A Surviving Divorced Spouse**

In order to be considered a surviving divorced spouse entitled to a Widow(er)'s annuity, you must:

- be finally divorced from the employee;
- have been married to the employee for a period of 120 months immediately before the date the final divorce became effective; and
- not be currently married, unless you remarried after age 60 (age 50 if you were previously entitled to a Disabled Surviving Divorced Spouse annuity before the marriage occurred).

If you have remarried since your divorce from the employee, and your remarriage(s) occurred before you attained age 60 (age 50 if you were previously entitled to a Disabled Surviving Divorced Spouse annuity before the remarriage(s) occurred), you must furnish proof that the later marriage(s) has terminated. Proof of divorce from the employee must also be submitted.

### **Section 11 - Marriage Requirements For A Divorced Mother/Father**

In order to be considered a divorced mother/father entitled to a Mother's/Father's annuity, you must:

- be finally divorced from the employee; and
- be unmarried.

NOTE: If you are married to someone who is entitled to a retirement, survivor or disability annuity under the Railroad Retirement Act or Social Security Act, you may be able to receive a benefit, even though that marriage has not ended.

If you have remarried since your divorce from the employee, you must furnish proof that the later marriage(s) has terminated. Proof of divorce from the employee must also be submitted.

### **Section 12 - Age Requirements For A Widow(er)'s Annuity**

A widow(er), remarried widow(er), or surviving

divorced spouse must be at least 60 years old, or age 50–59 and disabled, in order to be eligible for a Widow(er)'s annuity. If you become entitled to a Widow(er)'s annuity before attaining full retirement age, your annuity will be reduced.

You must submit proof of your age. Refer to Part IV, Section 17, for information on acceptable proofs.

### **Section 13 - Age Requirements For A Child's Or Student's Annuity**

In order to be considered for a Child's or Student's annuity you must be:

- under age 18; or
- age 18 or older if you become disabled before age 22 and the disability is permanent; or
- age 18-19 if you are attending elementary or secondary school full-time.

You must submit proof of your age. Refer to Part IV, Section 17, for information on acceptable proofs.

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## **Part IV Furnishing Proof To Support Your Application**

Every application for a railroad retirement annuity must be accompanied by documentary evidence that supports the claim for benefits. The sections in this part discuss the types of acceptable evidence. If you are unable to secure the necessary information, please contact the nearest field office of the Railroad Retirement Board (RRB). The people there will be glad to assist you.

### **Section 14 - General Information**

Evidence submitted in support of an applicant's claim should be:

- an original document; or
- a copy of a public record certified by the custodian of the record; or

- a facsimile, if it is sent to the RRB by the official custodian of the record.

Documents which have been altered in any way do not qualify as original or certified copies. Therefore, they cannot be used as evidence.

### **Section 15 - Proof Of Marriage**

The best proof of a ceremonial marriage is the original marriage certificate. If you cannot locate your original certificate, the following proofs are acceptable.

- A copy of a public record of the marriage certified by the custodian of the record. This record can be secured by contacting the Clerk of the Court in the city or county where the marriage license was obtained or the Bureau of Vital Statistics of the state in which you were married.
- A copy of a religious record of the marriage certified by the custodian of the record. This record can be secured by contacting the church where the marriage took place or the clergy who performed the service.

NOTE: A marriage license is **NOT** an acceptable proof of marriage. If no marriage ceremony took place, contact the nearest field office of the RRB.

### **Section 16 - Proof Of Divorce**

The best proof of divorce includes:

- the original decree of the final or absolute divorce or divorce a vinculo matrimonii; or
- a copy of the divorce certificate by the custodian of the record.

A certified photocopy of one of the documents shown above is acceptable. If you are unable to obtain any of the documents listed above or if the decree is not for final divorce, absolute divorce, or divorce a vinculo matrimonii, contact the nearest field office of the RRB. The people there will be glad to assist you.



## Section 17 - Proof Of Age

Various types of acceptable proofs of age and the places to secure them are listed below. If you are unable to obtain one of these documents, you should contact the nearest office of the RRB. The people there will be glad to assist you.

Older records are generally considered the best records. Try to secure evidence made at or near the time of your birth. Any document to be used for proof of age must show the person's name, age, or date of birth, and preferably, the date on which the record was established. Any document submitted as proof of age or date of birth must be based on a record that was established more than 5 years before the date on which you filed an application for an annuity or Medicare coverage with the RRB.

The best proofs of age include:

- a civil record of your birth, which can be secured from the Bureau of Vital Statistics in the state capital of your state of birth;
- the church record of your birth or baptism, which can be secured by contacting the church where you were baptized or confirmed;
- notification of registration of birth, which can be secured by contacting the county or city Health department in the city or county in which you were born; or
- the hospital birth record or certification.

Churches usually do not destroy their records and if there was a record of your date of birth made when you were an infant or a child, it is probably still on file at the church. Even if the church building is no longer in existence, the records may be available at the diocesan, state, or regional office of the denomination.

Our field offices have a complete list of addresses and fees for public birth records in the United States and in many foreign countries. Call or write the nearest field office to find out where to write and how much to send to obtain your birth record.

## Section 18 - Proof Of Death

Proof of the death of the railroad employee is required with all applications for benefits as the survivor of the railroad employee. If the death occurred inside the United States, the best proofs of death include:

- a certified photocopy of the death certificate, which can be secured from the Bureau of Vital Statistics or Department of Health for the city, county or state in which the death occurred;
- a signed statement of death by the funeral director on RRB Form G-273a or SSA's Forms SSA-721 or SSA-2872;
- a copy of the coroner's report of death; or
- the verdict of the coroner's jury of the state or community where death occurred.

A certified photocopy of any of the documents described above is acceptable. If you are unable to obtain any of these documents, contact the nearest field office of the RRB. The people there will be glad to assist you.

If the death occurred outside the United States, the proof of death can include:

- a report of death from a United States consul, or other agent of the State Department, bearing the signature and official seal (you can secure this report from the United States consulate or embassy);
- a certified copy of the public record of death; or
- a signed statement of death by a funeral director.

## Section 19 - Proof Of Military Service

Proof of military service may be a certificate of discharge, or any official military record that shows the dates of service. If you cannot locate the military service record, contact the RRB for help.

## Section 20 - Proof Of Relationship

Proof of relationship must be given by each person applying for benefits as the child, parent, brother,

sister or grandchild of the former railroad employee. The best proof of relationship is a certified copy of the civil or religious birth record of the person filing for benefits showing the parent's name.

When the relationship involves a legally adopted child or the parents of a legally adopted child, the best proof is a certified copy of the decree or order of adoption.

It may be necessary to submit more than one document to prove the relationship to the employee. The following situations are examples of when this may occur.

- A stepchild must show he or she is the child of the person married to the employee.
- A grandchild must show who his or her parents are and prove that his or her parent is related to the employee.
- A stepparent must show that the person he or she is married to is the employee's parent.

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## Part V General Information

### Section 21 - If You Are Currently Receiving A Spouse Annuity

If you are currently receiving a Spouse annuity from the Railroad Retirement Board (RRB), you do not need to file an application for benefits; however, proof of death must still be submitted. After we have received all necessary information, your annuity will be converted to a Widow(er)'s annuity.

You should carefully review the information in this booklet and booklet *RB-9s, Events That Affect A Survivor Annuity*. There is important information in these booklets concerning the events that may affect your annuity and how to report these events.

The RRB annuity that you are currently receiving will continue until we have converted your annuity.

### Section 22 - Beginning Date Of A Widow(er)'s Annuity

The beginning date of your annuity depends on several factors: the type of Widow(er)'s annuity for which you are applying, your age, and the date your application is filed at the RRB.

If you are applying for an annuity based on your age, your annuity can begin on the latest of the following dates.

1. If you have attained full retirement age in the month of filing:

- The month the employee died.
- The month you attained full retirement age.
- The month preceding the month you attained full retirement age if the employee died in that month and you are a remarried widow(er) or surviving divorced spouse.
- Six months before the month in which you file the application, but not before you attain full retirement age.
- The month your remarriage ends if you are a remarried widow(er) or surviving divorced spouse who remarried before age 60.

2. If you are under full retirement age in the month of filing:

- The month the employee died.
- The month you became age 60.
- The month in which you file your application.
- The month your remarriage ends if you are a remarried widow(er) or surviving divorced spouse who remarried before age 60.
- Six months before the month in which you file the application if you are a widow(er) between ages 60 and 62.

## Section 23 - Beginning Date Of All Other Types Of Annuities

The annuity can begin on the latest of these three dates:

- The month the employee died.
- The month all necessary requirements for an annuity are met.
- Six months before the month in which an application is filed.

## Section 24 - Effect Of A Monthly Annuity On Other Railroad Retirement Board Benefits

If the employee is survived by anyone eligible for an insurance annuity in the month in which the employee died, no lump-sum death benefit will be paid by the RRB.

If you are eligible to receive an annuity from the RRB based on your own railroad service, both that annuity and your survivor annuity will be paid to you, although an adjustment will be made in the amount of the survivor annuity.

If you are eligible to receive a Spouse annuity on another claim number or another survivor annuity (i.e., a Widow(er)'s annuity or Parent's annuity) from the RRB, only the higher annuity will be paid.

## Section 25 - How Earnings Affect An Annuity

Refer to Form *G-77, How Earnings Affect Payment of Survivor Annuities*, for the annual earnings exempt amounts.

The term "annual earnings exempt amount" means the amount of money you can earn in a year without losing part of your annuity.

You may lose part of your annuity if you earn more than the "annual earnings exempt amount" in a year. An annuitant who has attained full retirement age (FRA) is not affected by this provision. See Page i, Introduction, for a definition of full retirement age.

There is also a "monthly earnings exempt amount" which is 1/12 of the annual earnings exempt

amount. The "monthly earnings exempt amount" applies **only** in the first year in which:

- you are entitled to an annuity; and
- you have a "nonwork" month.

A "nonwork" month is one in which:

- you do not work; or
- you work but earn less than the "monthly earnings exempt amount;" or
- you work in self-employment but do not perform "substantial services."

Example: A widow's annuity began 8-1-2000. She earned \$40,000 before her retirement in July. Because she was entitled to an annuity and had nonwork months in 2000 (August through December), 2000 is the widow's grace year. The monthly earnings test allows payment of her annuity August through December, even though her earnings of \$40,000 would have caused deductions under the annual earnings test.

To determine whether you perform "substantial services" in self-employment, the RRB considers:

- the amount of time you devote to the business;
- the type of business;
- the type of service performed; and
- how all this compares to the work you did before you applied for your annuity.

When you figure your annual earnings, count all earnings from employment and self-employment for the entire year.

Earnings from employment include all wages, salaries, vacation pay, commissions, bonuses, fees, tips and retroactive wage increases. The cash value of any goods or services (such as meals or living quarters) furnished you for services performed are also counted as earnings from employment. Count all amounts before any payroll deductions for taxes, social security, insurance premiums and so on.

Earnings from self-employment mean your net income (profit after deduction of allowable business expenses) for the year.

Do not include as earnings any money which you receive for any reason other than work, such as:

- interest from savings;
- income from investments – stocks, bonds, real estate;
- gifts;
- inheritances;
- pensions or other retirement payments.

In the calendar year you attain full retirement age, for every \$3.00 you earn over the “annual earnings exempt amount,” up to the month you attain full retirement age, \$1.00 is deducted from your annuity. If you have not attained full retirement age, for every \$2.00 you earn over the “annual earnings exempt amount” in a calendar year, \$1.00 is deducted from your annuity.

### **Section 26 - Credit For Employee’s Military Service**

If the employee was never in the military service, go to Section 27.

If the employee served in active duty in the United States Armed Forces, the RRB may be able to use that military service to increase your annuity.

Creditable military service can be counted as if it were railroad service if the following conditions are met:

- The employee performed creditable railroad service in the same or preceding year in which the military service began.
- The military service was involuntary.

Voluntary service is only creditable when such service was entered during a war period. Special rules may apply if the military service was from June 15, 1948, through December 15, 1950. Contact your local field office if this situation applies.

If the military service cannot be counted as railroad service, it still might be countable as wage credits. The RRB will determine if the military service is creditable, and also determine the most advantageous way to count it.

### **Section 27 - Payments Received After The Employee’s Death**

Any annuity payments received after the employee’s death are not payable and should be returned. If the employee was receiving his or her annuity by check, the check can be returned to the nearest field office of the RRB or to the address shown on the envelope. If the annuity payments were being sent directly to the employee’s financial institution, that institution will return the funds after they are notified of the employee’s death.

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## **Part VI After You Apply For Your Annuity**

The sections in this part of the booklet explain what the Railroad Retirement Board (RRB) does after receiving your annuity application. Included is important information about how soon you can expect a decision on your application and the different ways in which the RRB can send you your annuity payments.

### **Section 28 - Notice Of Railroad Retirement Board Decision About Your Application**

Using the information on your application and the proofs, the RRB will decide if an annuity can be paid.

If an annuity cannot be paid, the RRB will send you a letter which explains:

- why an annuity cannot be paid; and
- what you can do if you disagree with the reason an annuity cannot be paid.

If an annuity can be paid, you will receive:

- a letter which shows the amount of the monthly

- payment and other information about your entitlement to an annuity; and
- a payment for the amount which is due from the beginning date of your annuity through the month before the payment is received.

Sometimes the RRB will not be able to make a decision on your application without additional information. If so, you will be contacted by an RRB representative. You will be asked to send us the additional forms, proofs, or statements that are needed.

You will receive your first payment, or a decision, within 65 days of the date you file your application, or become entitled to benefits, if later. If you are already receiving a spouse annuity, you will receive your first payment, or a decision, within 35 days of the date we receive notice of the employee's death. If you do not hear from us within this time frame, please contact us so we can find out what is causing the delay.

### **Section 29 - How Payments Are Made**

In most cases, RRB annuity payments are deposited directly into the applicant's checking or savings account at their financial institution. Therefore, when filing for an annuity, bring the following: your checkbook or a voided check; your bank statement; or the name, location, and telephone number of your financial institution. This will allow the field office representative to properly route your payment.

The first payment which you receive from the RRB will include all back payments which are due. This payment may be received at any time during the month.

Payments issued after the back payment will be deposited into your account on the first day of the month. If the first day of the month falls on a Sunday or a holiday, the payment will be made on the next business day. The payment which is deposited at the beginning of the month actually represents the annuity which was due for the previous month.

In some situations, you can request that payments be made by check mailed to your home address.

### **Section 30 - Changing Account or Financial Organization**

To arrange to have your payment sent to a different account or a different financial institution, simply notify the nearest office of the RRB. To avoid delays in the receipt of your payment, do not close the old account until your annuity payments have begun to be deposited into the new account.

### **Section 31 - Change of Address**

Always inform the RRB when there is a change in your mailing address. It is important to report all changes to the RRB, even if your payments are sent directly to a financial institution. This mailing address is used to send you any material other than your payments, such as award notices, notices of cost-of-living increases, Medicare information, taxation information, new annual exempt amounts, etc.

To report a change of address, notify the nearest office of the RRB. You may telephone or write the office. If you write, include the following information:

- Your railroad retirement claim number.
- Your name.
- Your new address.
- Your old address.
- The date you will start receiving mail at the new address.

If you do not report your change of address, the RRB cannot be responsible for any important information which you do not receive.

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## **Part VII**

### **How Your Annuity Is Computed**

#### **Section 32 - The Parts Of A Railroad Retirement Annuity**

Your annuity can be made up of one or two parts, depending on the type of annuity you are receiving.

The first part, Tier I, is included in all annuities. See Section 34, for an explanation of how the Tier I is computed.

The second part, Tier II, (explained in Section 35), is not included in your annuity computation if you are a remarried widow(er), surviving divorced spouse, divorced mother/father or a parent, if other survivor annuitants are entitled or potentially entitled to a widow(er), surviving divorced spouse or child benefit.

### Section 33 - Cost-of-Living Increases

Periodically, you will receive a cost-of-living increase. Your gross Tier I increase will be the same percentage as the social security benefit cost-of-living increase. Your Tier II will generally increase by 32.5 percent of the Tier I percentage increase. An increase may not be payable each year.

### Section 34 - Tier I

The Tier I amount is based on the deceased employee's combined railroad retirement and social security credits. The Tier I you will receive is equal to a percentage of the amount that the employee would have received if he or she had retired under the social security system only. The percentage depends on the type of benefit you are receiving and the number of annuitants who are qualified to receive a benefit. If there are fewer than three qualified family members, the percentages are as follows:

Widow	100%
Mother/Father	75%
Child	75%
Student	75%
One Parent	82-1/2%
Two Parents	75% each

If there are three or more qualified family members, an amount called the "family maximum" applies to the Tier I amount. The "family maximum" amount is divided proportionately among the family members to determine the individual annuity Tier I amounts.

The Tier I portion of the annuity is reduced for:

- the entire amount of any social security benefit which you are entitled to receive on your own

account or on the account of another person;

- a portion of any railroad retirement annuity based on your own railroad industry work;
- two-thirds of the amount of any public service pension based on your earnings if you are receiving a widow(er) type benefit and you do not meet one of the exceptions given in Section 37.

If you are not entitled to a Tier II, you cannot receive an annuity if the amount of any social security benefit you receive is greater than the amount of the maximum Tier I which could be paid on the employee's account.

### Section 35 - Tier II

**Widow(er)s**—December 2001 legislation established an "initial minimum amount" which yields, in effect, a widow(er)'s tier II benefit equal to the tier II benefit the employee would have received at the time of the award of the widow(er)'s annuity, minus any applicable age reduction. It does this by adding a "guaranty amount," initially set at 50% of the employee's tier II, to the 100% tier I and 50% tier II benefits provided under prior law. The "initial minimum amount" is computed as if it applied on the widow(er)'s annuity beginning date and is not increased for cost-of-living adjustments.

This "guaranty amount" is reduced each year by the dollar amount of the cost-of-living increases payable in both the tier I and tier II benefits provided under prior law. Consequently, the widow(er)'s net benefit payment will not increase until, the annuity, as computed under prior law exceeds annuity computed under the initial minimum amount formula.

The widow(er)s' guaranty provision applies to all widow(er)s entitled to a tier II effective February 1, 2002. If the annuity beginning day is before February 1, 2002 the increase due to the "initial minimum amount" may be zero, because of previous cost-of-living adjustments.

If a widow(er) is also a railroad employee annuitant and both the widow(er) and the deceased employee started railroad employment after 1974, only the railroad retirement employee annuity or the survivor

annuity, whichever is larger, is, in effect, payable to the widow(er) unless the smaller annuity is chosen.

**Other survivors**—Each child receives 15% of the deceased employee’s tier II amount, and each surviving parent receives 35%. the minimum total tier II amount payable to a family is 35% of the employee’s tier II amount, and the maximum, 130%.

A tier II benefit is not provided for a surviving divorced spouse or a remarried widow(er). A tier II benefit is not payable to surviving parents if other family members may receive benefits or if the parent has remarried.

### **Section 36 - Social Security Benefits**

If you are qualified to receive an old age, survivor, or disability insurance benefit from the Social Security Administration (SSA) at the time that you file your railroad retirement application, and you indicate on the application that you want to use your application to protect your filing date for a social security benefit, SSA will get in touch with you and advise you on how to file a social security application.

If you become qualified to receive any social security benefits after you file your application for an annuity with the Railroad Retirement Board (RRB), you must contact the SSA office directly to file an application for social security benefits. In either case, SSA will decide if you are entitled to receive benefits and will compute the amount of the benefits which can be paid. However, the actual payment will be made by the RRB and will be combined with your regular monthly railroad retirement payment.

Section 34 explained how your annuity must be adjusted for any social security benefit which you are entitled to receive. In most cases, the total amount which will be paid to you each month by both the RRB and SSA will not change if you file for social security benefits.

Filing for a social security benefit will usually increase the total benefits payable to you only if all of the following situations apply:

- Your social security benefit is larger than the Tier I part of your railroad retirement annuity; and

- you do not expect to earn more than the annual earnings exempt amount.

It is important to notify the RRB as soon as you file a social security application for monthly benefits. If you do not notify the RRB, a railroad retirement annuity overpayment may result.

### **Section 37 - Public Service Pension**

As explained in Section 34, a widow(er) type annuity must be adjusted for any public service pension payment, based on your earnings, that you receive.

A public service pension is the retirement pay you receive because you worked for the Federal Government of the United States, a state government or any political subdivision of a state, such as a city, county, town, township, village, school or sanitation district. The definition of “state” includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa. Work for the government of a foreign country is not included.

The public service pension may either be monthly checks or a lump-sum payment. It may be administered by the government agency or a private insurance company. The following are not considered to be public service pension payments:

- Social security benefits.
- Railroad retirement annuities.
- Veteran affairs benefits.
- Worker’s compensation.
- Black lung benefits.

In addition, your annuity will not be adjusted for a public service pension if:

- If you were eligible for or entitled to a public service pension before July 1, 1983, a special exemption may apply to you. Contact an RRB field office if this situation applies to you.
- If you worked for state or local government:

## **Part VIII Medicare Benefits**

- Your application for benefits was filed after March 2004 and your date last worked is later than June 30, 2004 and FICA taxes were deducted from your public service wages for 60 months. Coverage must include the last month of employment.
- Your application for benefits was filed before March 2004 or your date worked is before July 1, 2004 FICA taxes must have been deducted on the last day of your public service employment.
- If you are a federal employee and you elected coverage under the Federal Employee Retirement System (FERS), If FERS coverage was elected in 1998, you must have worked for a minimum of five years under FERS.

If you are receiving a public service pension when you file an application, you must report to the RRB any changes in the amount of the public service payment.

### **Section 38 - Widow(er)'s Rate Is Never Less Than Previous Rate**

If you are currently receiving a retirement Spouse annuity, the total of your Widow(er)'s annuity will be compared to the amount you are now receiving. If the calculation of your Widow(er)'s annuity results in an amount that is less than what you are currently receiving as a spouse, your Widow(er)'s annuity will be increased to equal that amount. Your Widow(er)'s annuity amount will never be less than the annuity you were receiving in the month before the employee's death.

This guarantee does not apply to a Surviving Divorced Spouse annuity.

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### **Section 39 - Medicare Benefits**

Medicare is a Federal health insurance program for people age 65 or older and certain disabled people. There are two parts to the Medicare program. One part is Hospital Insurance (also called Part A) and the other part is Medical Insurance (also called Part B).

Medicare Part A helps pay for inpatient hospital care, inpatient care in a skilled nursing facility following a hospital stay, home health care and hospice care. You do not pay a premium for Part A coverage.

Medicare Part B helps pay for doctor's services, outpatient hospital care, diagnostic tests, durable medical equipment, ambulance services and many other health services and supplies that are not covered by Medicare Part A. If you are receiving a monthly payment from the Railroad Retirement Board (RRB), your premium will be deducted from that monthly payment. If you are not receiving a monthly payment or if your monthly payment is not large enough to cover the premium, you will be billed for the premium. If you wish to terminate your Part B coverage, advise the RRB in writing.

You are eligible for Medicare if you are age 65 or over and receive or could receive a monthly railroad retirement annuity. If you are under age 65, you can get Medicare if you are rated disabled under the Social Security Act and have received a monthly railroad retirement annuity for 24 months. If you receive monthly payments, you will automatically be enrolled for Medicare at the appropriate time. If you are not receiving a monthly payment, contact the RRB about filing for Medicare.

If you decline Part B coverage when you are first eligible or terminate your Part B coverage, you will not have another chance to enroll until the next general enrollment period, unless you qualify for a special enrollment period. You may also be charged a penalty for late enrollment unless you are covered under an employer group health plan.

If you are under age 65 and you are receiving a monthly payment which is not based on disability and you become disabled, contact the RRB about



filing for disability Medicare.

For more information about Medicare call 1-800-MEDICARE (1-800-633-4227) 24-hours a day, for automated options.

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## Part IX Federal Income Tax And Your Benefits

### Section 40 - General Information

Regular railroad retirement annuities consisting of Tier I, Tier II, and Vested Dual Benefit components, have been subject to United States Federal income tax since 1984. Supplemental annuities have been subject to Federal income tax since 1966. According to the Railroad Retirement Act, Section 14 (45 U.S.C. Section 231m), railroad retirement annuities are **not** taxable for State income tax purposes.

Refer to booklet *TB-25, Tax Withholding and Railroad Retirement Payments*, for more detailed information regarding tax withholding on railroad retirement payments. Refer to booklet *TB-85, Information about the Taxation of Railroad Retirement Annuities*, for general taxation information.

We only report taxable payments and repayments on tax statements. Questions about U.S. income tax information, what amounts to show on income tax returns or how to figure your taxable payments should be referred to the Internal Revenue Service. However, questions about railroad retirement benefit payments should be referred to your local Railroad Retirement Board office.

### Section 41 - Tier I and Tier II

The Tier I component of a railroad retirement annuity is composed of two parts: (1) the Social Security Equivalent Benefit (SSEB) portion and (2) the Non-Social Security Equivalent Benefit (NSSEB) portion. Your Tier I may be composed of SSEB only, NSSEB only, or both.

The SSEB portion of Tier I is similar to a social security benefit and is treated as a social security benefit for Federal income tax purposes.

To determine if your SSEB portion of Tier I and/or social security benefits are taxable, refer to the Social Security Benefits worksheet in the IRS booklet *1040 Instructions*. For more detailed information, get *IRS Publication 915, Social Security and Equivalent Railroad Retirement Benefits*.

The NSSEB portion of Tier I and the Tier II portion of a railroad retirement annuity are treated like contributory pensions for Federal income tax purposes. Only the amount of the contributory pension that exceeds the amount of contributions made by the wage earner is taxable. Refer to *IRS Publication 939, General Rule for Pensions and Annuities*, to determine your taxable amount if you are not using the Simplified General Rule.

### Section 42 - Information For Widow(er)s

For widow(er)s that were paid as a spouse for part of the year, **only** the annuity payments received as a widow(er) should be used to compute the nontaxable portion of the annuity payments.

For a widow(er) under age 60 who has a child in care, the Tier I portion of the railroad retirement annuity is considered all SSEB. However, the Tier I portion of the railroad retirement annuity is considered all NSSEB if the Tier I is **not** payable under the rules established by the Social Security Administration. An example of Tier I considered as all NSSEB occurs when the child under the widow(er)'s care turns age 16 and is not disabled.

### Section 43 - Repayments

A repayment is a returned payment, a cash refund, or an amount withheld for overpayment purposes.

Under the Internal Revenue Code, the RRB is allowed to give repayment credit for the SSEB and/or pre-SSEB portion of Tier I for any tax year. Refer to *IRS Publication 915, Social Security and Equivalent Railroad Retirement Benefits*, for information regarding current tax year or prior tax years' SSEB repayment.

The NSSEB portion of Tier I and Tier II repayments are composed of taxable and nontaxable portions. There are tax implications when considering NSSEB Tier II repayments. Therefore, the way you will han-

dle the repayment will depend on the tax years to which the repayment applies, and whether you had included the benefits that you repaid in your gross income for those tax years. Refer to *IRS Publication 575, Pension and Annuity Income*, for information regarding NSSEB, Tier II, Vested Dual Benefits, and SUPP repayments as well as instructions on how to handle current tax year and prior tax years' repayments for income tax purposes.

#### **Section 44 - U.S. Citizen and Resident Tax Withholding**

The RRB allows citizens and legal residents of the United States to elect tax withholding on their railroad retirement annuity. A tax withholding election must be filed on Form *RRB W-4P, Withholding Certificate for Railroad Retirement Payments*. RRB annuitants can also file IRS Form *W-4V, Voluntary Withholding Request*, to have taxes withheld from the SSEB portion of Tier I, or from their Social Security Benefit. Form *W-4V* permits tax withholding at four set rates: 7%, 10%, 15% or 27%. Form *RRB W-4P* allows annuitants to have taxes deducted from the pension portions of the annuity: NSSEB, Tier II, Vested Dual Benefits, and SUPP.

If you elect to have income taxes withheld, by using Form *RRB-W-4P*, you may control the amount of taxes withheld from your regular monthly or accrued annuity payments by specifying your marital status and the number of withholding allowances. You may also request the RRB to withhold an additional amount or not to withhold any taxes from your annuity by using Form *RRB W-4P*. If an election is made, it will remain in force until changed or revoked. If an election is not made, the RRB is required by law to withhold taxes as if you were married with three allowances. However, tax withholding would not automatically be initiated unless your taxable annuity components paid in a month exceed the minimum mandatory withholding amount. Refer to booklet *TB-25, Tax Withholding and Railroad Retirement Payments*, for the minimum mandatory withholding amount and further information on tax withholding.

NOTE: If a U.S. citizen moves or resides outside of the United States and has not filed Form *RRB-1001, Nonresident Questionnaire*, claiming U.S. citizenship, taxes will be withheld at the mandato-

ry nonresident alien tax withholding rate until Form *RRB-1001* is received at the RRB. See Section 45 below, for further information.

#### **Section 45 - Nonresident Alien Tax Withholding**

A nonresident alien is an individual who is **neither** a citizen nor a resident of the United States. As prescribed by the Internal Revenue Code, nonresident aliens are subject to a mandatory tax withholding rate of 30% on 85% of the SSEB amount and 30% of the NSSEB and Tier II amounts.

The United States has a number of tax treaties with foreign countries which may result in a reduced tax withholding or, in some instances, no tax withholding for citizens or residents of those foreign countries. In order to take advantage of a tax treaty, you must claim an exemption based on a tax treaty in effect between the United States and your country of legal residence. Such a claim must be renewed every three years. Form *RRB-1001, Nonresident Questionnaire*, is what a nonresident beneficiary should file in order to furnish citizenship, residence, and tax treaty claim exemption information to the RRB. If Form *RRB-1001* is not filed or received, any nonresident beneficiary is assumed to be a nonresident alien and the mandatory tax withholding rate prescribed by the Internal Revenue Code is applied to the railroad retirement annuity.

Therefore, we encourage our beneficiaries to file proof of citizenship and/or Form *RRB-1001* **before** moving to a foreign country in order to avoid the mandatory nonresident alien tax withholding rate.

Contact an office of the RRB, an American Consulate, or an American Embassy if you need help completing Form *RRB-1001*, or if you need to submit proof of your legal residence or citizenship.

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# Paperwork Reduction and Privacy Act Notice

This notice is given under the Paperwork Reduction Act of 1995 and the Privacy Act of 1974. The Privacy Act requires that the Railroad Retirement Board (RRB) tell you the following whenever we ask you for information.

- 1) The law which allows us to ask for the information;
- 2) whether that law requires you to give us that information and what, if anything, might happen to you if you do not give it to us;
- 3) the reason why the information is requested; and
- 4) the persons, organizations, and agencies to which we may release the information without your permission.

The RRB's authority for requesting this information is Section 7(b) of the Railroad Retirement Act of 1974. Providing us with this information is voluntary on your part. However, if you fail to provide us with the requested information we may be unable to pay you any benefits. The RRB needs this information to determine whether you are eligible to receive such benefits and, if so, the amount you are entitled to receive. If your annuity application is approved and we begin to pay you benefits, information that we may request from you in the future will be used to determine whether you are entitled to continue to receive such benefits.

Although the information we request is almost never used for any purpose other than the payment of benefits under the Railroad Retirement Act, the RRB does have the authority to release information to the indicated individuals, organizations, and/or agencies listed below without your approval:

- 1) An attorney, the Office of the President, a Congressional office, a labor union or the Department of State's embassy or consular offices if they allege to be representing you at your request.
- 2) Other people who are receiving benefits based on the same railroad retirement account as you are if the information affects their payments from the RRB.
- 3) A person who will receive benefits on your behalf if the RRB decided that some medical condition keeps you from receiving your own benefits; such information may also be released in determining whether such a medical condition exists and who is suitable to receive such benefits for you.
- 4) To people or organizations who are working for the RRB; such information may include medical records.
- 5) The U.S. Treasury Department or U.S. Postal Service to issue payments and to investigate lost, forged, or stolen checks.
- 6) Your last employer to make sure that you are eligible to receive railroad retirement benefits and you continue to receive any available medical benefits, and to any railroad industry employer (or to its insurance company) to make sure that you can receive any private retirement or insurance benefits which may be offered by the employer.
- 7) The Social Security Administration, Center for Medicare & Medicaid Services, Pension Benefit Guarantee Corporation, Office of Personnel Management, Department

of Veterans Affairs, or Federal, state, or local welfare or public aid agencies to determine if you can receive benefits from these organizations and if any previous benefits were paid incorrectly.

- 8) The Internal Revenue Service or to state and local taxing authorities for figuring your taxes and for use in audits.
- 9) Your last address and the name of your last employer may be released to the Department of Health and Human Services to be used in the Parent Locator Service.
- 10) The General Accounting Office for audits and for collecting overpayments owed to the RRB or the Social Security Administration.
- 11) The U.S. Department of Labor as required by the Federal Coal Mine and Safety Act.
- 12) In certain cases for law enforcement purposes and for court proceedings.
- 13) Information about the determination and recovery of an overpayment made to you may be released to any other person from whom any portion of the overpayment is being recovered.
- 14) Your name and address may be released to a Member of Congress to inform you about current or proposed legislation which could affect the railroad retirement system.
- 15) Professional Standard Review Organizations and State Licensing Boards when services provided by physicians or practitioners suggest unethical or unprofessional conduct.

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We estimate the application process takes an average of 20 to 47 minutes per response to complete, including the time for reviewing the instructions, getting the needed data, and reviewing the completed application. Federal agencies may not conduct or sponsor, and respondents are not required to respond to, a collection of information unless it displays a valid OMB number. If you wish, send comments regarding the accuracy of our estimate or any other aspect of this process, including suggestions for reducing completion time, to the Chief of Information Resources Management, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

## Computer Matching and Privacy Protection Act Notice

The Computer Matching and Privacy Protection Act of 1988 requires the Railroad Retirement Board (RRB) to advise you that information you have provided may be used, without your consent, in automated matching programs. These matching programs are a computer comparison of RRB records with records kept by other Federal, state, or local governmental agencies. Information from these matching programs can be used to establish or verify a person's eligibility for Federally funded or administered benefit programs and for repayment of payments or delinquent debts under these programs.

## **Nondiscrimination On The Basis Of Disability**

Under Section 504 of the Rehabilitation Act of 1973 and Railroad Retirement Board (RRB) regulations, no qualified person may be discriminated against on the basis of disability. RRB programs and activities must be accessible to all qualified applicants and beneficiaries, including those with impaired vision or hearing. Disabled persons needing assistance (including auxiliary aids or program information in accessible formats) should contact the nearest RRB office. Complaints of alleged discrimination by the RRB on the basis of disability must be filed within 90 days in writing with the **Director of Administration, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092**. Questions about individual rights under this regulation may be directed to the RRB's Director of Equal Opportunity at the same address.

## **Fraud And Abuse Hot Line**

Call the toll-free **Fraud and Abuse Hot Line** if you have reason to believe that someone is receiving railroad retirement or unemployment-sickness benefits to which s(he) is not entitled; that persons responsible for the financial affairs of minors or incompetent beneficiaries are misappropriating benefits; or that a doctor, hospital, or other provider of health care services is performing unnecessary or inappropriate services or is billing Medicare for services not received. You may also use the Hot Line to report any suspected misconduct by a Railroad Retirement Board (RRB) employee. The Hot Line has been installed by the RRB's Inspector General to receive any evidence of fraud or abuse of the RRB's benefit programs.

Call (toll-free) 1-800-772-4258. Or you may send your complaints in writing to the Railroad Retirement Board, OIG, Hot Line Officer, 844 North Rush Street, Chicago, Illinois 60611-2092. Please do **not** call the Hot Line with questions about eligibility requirements, delayed claims, or similar problems. Such matters should be directed to the nearest RRB field office.

