



FROM THE DESK OF
JOHN BRAGG
LABOR MEMBER



U.S. Railroad Retirement Board

February 2024

Spouses Encouraged to Apply for Annuities

In addition to the railroad retirement annuities payable to railroad employees, the Railroad Retirement Act provides for direct payment of spouse annuities to the wives and husbands of retired employees.

However, eligible spouses may not be filing applications for these railroad retirement annuities. While some spouses may be unaware of their availability, a greater number appear to *incorrectly* believe that they cannot receive a railroad retirement spouse annuity if they are also receiving a non-railroad retirement benefit based on their own work and earnings, such as a social security benefit or a public service pension. **While receipt of non-railroad retirement benefits can reduce the amount of a railroad retirement spouse annuity, it is still financially advantageous to file for a railroad retirement spouse annuity.**

The following questions and answers attempt to clarify some common misconceptions about how entitlement to, or receipt of, non-railroad retirement benefits affects railroad retirement spouse annuities.

1. How are railroad retirement spouse annuities reduced for the receipt of non-railroad retirement benefits?

The tier I component of a spouse annuity is reduced for any social security entitlement, regardless of whether the social security benefit is based on the spouse's own earnings, the employee's earnings, or the earnings of another person. This reduction follows principles of social security law which limit payment to the higher of any two or more benefits payable to an individual at one time.

The tier I component may also be reduced for receipt of any federal, state, or local pension separately payable to the spouse based on the spouse's own earnings. For spouses subject to a public service pension reduction, the tier I component reduction is equal to 2/3 of the amount of the public service pension.

While **social security or public pension offsets** reduce, or can eliminate, the tier I component, they **do not affect the tier II component** potentially payable to a spouse.

2. What would be an example of how the social security reduction is applied?

Mary, the spouse of a retired 60/30 employee, quits her social security-covered job as soon as she attains age 62 and applies for her social security benefit which, after the required social security age reduction, yields \$850 a month.

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Mary also applies for a railroad retirement spouse annuity. Her husband's monthly railroad retirement annuity consists of a tier I component of \$1,600 and a tier II component of \$1,200. Her gross spouse annuity would therefore consist of a tier I component of \$800 a month (50 percent of \$1,600 with no early retirement reduction as her husband is 60/30) and a tier II component of \$540 (45 percent of \$1,200 with no age reduction). Since Mary's own social security benefit is larger than her spouse tier I component, no tier I is payable. However, Mary would still be entitled to a monthly spouse tier II component of \$540 in addition to her social security benefit.

3. What would be an example of how the public service pension reduction is applied?

Loretta, the spouse of a retired 60/30 employee, is receiving a monthly pension of \$1,200 based on her employment with the state of Illinois. Loretta also recently filed for a railroad retirement spouse annuity. Her husband's monthly railroad retirement annuity consists of a tier I component of \$2,000 and a tier II component of \$1,400.

Loretta's spouse annuity would therefore consist of a tier I component of \$200 (50 percent of \$2,000, with no early retirement reduction as her husband is 60/30, minus $\frac{2}{3}$ (.66667) of \$1,200, the amount of the public service pension) and a tier II component of \$630 (45 percent of \$1,400 with no age reduction).

4. How do the average railroad retirement annuities and social security benefits awarded to spouses compare?

Annuities awarded to railroad retirement spouses (married to a career rail employee with 30 years of service) in fiscal year 2023 averaged \$1,770 per month and \$21,240 annually, while spouses under social security were awarded benefits averaging \$1,270 and \$15,240, respectively.

5. How can someone get more information about railroad retirement spouse annuities?

Publications, news releases, and other materials related to railroad retirement benefits are available online at **RRB.gov** under the main menu tab labeled **Benefits (Retirement)**. Additional information is also available by going to **RRB.gov/FAQ**, and then selecting **Retirement**. Employees and spouses may schedule an appointment with a field service representative for individual retirement counseling, which is provided at any RRB field office or over the phone, by calling 1-877-772-5772. Employees and their spouses are encouraged to contact the RRB when planning for retirement so that agency representatives can explain benefit rights and furnish estimates of their prospective annuities.

While persons seeking in-office assistance are encouraged to schedule an appointment with their local field office by calling the agency's toll-free number, individuals without appointments will not be refused service. However, they may be asked to schedule an appointment for a later time if there is no immediate availability. Individuals should bring a photo ID when visiting a field office. Field office addresses can be found by clicking on the **Field Office Locator** tab at **RRB.gov** or by calling 1-877-772-5772. RRB field offices are generally open Monday through Friday from 9:00 a.m. to 3:00 p.m., except for federal holidays.



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Railroad Retirement Spouse and Widow(er)s' Annuities and Public Service Pensions

Unless certain exemption requirements are met, Railroad Retirement Act spouse and widow(er)s' annuities (including divorced spouse, surviving divorced spouse, and remarried widow(er)s' annuities) must be reduced when a spouse or widow(er) is also entitled to a public service pension. Such dual entitlement, if not reported to the Railroad Retirement Board (RRB), can result in benefit overpayments which have to be repaid, sometimes with interest and penalties.

The following questions and answers describe how the RRB adjusts the benefit payments of spouse and widow(er) annuitants who are entitled to public service pensions.

1. What is considered a public service pension for social security or railroad retirement purposes?

A public service pension is any periodic benefit payment, as well as a lump-sum payment made in lieu of periodic payments, based on an individual's employment with a Federal, State, or local government unit. Some examples include pensions paid on the basis of age or disability to teachers, police officers, and civil service personnel. Full salary benefits paid to a judge who has retired or resigned under the Federal judiciary retirement system are also considered public service pensions.

Most military service pensions and payments from the Department of Veterans Affairs will **not** cause a reduction. A pension paid by a foreign government or an interstate instrumentality also has no effect on a spouse or widow(er)'s annuity.

2. How is the public service pension reduction applied to railroad retirement spouse or widow(er)s' annuities?

Under current law, the tier I portion of the annuity is reduced by an amount equal to 2/3 of the amount of the public service pension. The amount of the public service pension is the current gross amount, before any deductions for income tax withholding, Medicare premiums, health insurance or other benefits.

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3. What is the background of the public service pension reduction applied to spouse and widow(er)s' annuities?

The public service pension reduction applied to social security and railroad retirement spouse and widow(er)s' benefits was created by social security legislation which also applied to the tier I benefits of railroad retirement spouses and widow(er)s. The tier I portion of a railroad retirement annuity is based on railroad retirement credits and any social security credits the railroad employee has acquired. It is computed under social security formulas and approximates what social security would pay if railroad work were also covered by that system. Tier I benefits are, therefore, reduced in the same manner as social security benefits when certain other benefits are also payable.

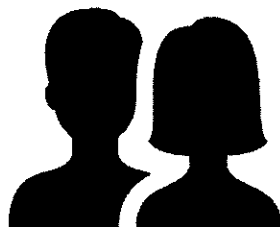
4. Are there any exemptions for railroad retirement spouse or widow(er) annuitants from the public service pension offsets?

Generally, Federal, State and local government workers must be covered by social security throughout their last 60 months of employment with the pension-paying governmental entity or be receiving a public service pension that is **not** based on their own earnings to be exempt from a public service pension reduction.

5. Where can more information on how these pension offsets affect railroad retirement benefits be obtained?

More information is available by visiting the RRB's website, **RRB.gov**, or by calling an RRB office toll-free at 1-877-772-5772. Persons can find the address of the RRB office serving their area by clicking on the **Field Office Locator** tab at RRB.gov or by calling the agency's toll-free number. RRB field offices currently offer **limited in-person service by appointment**. To schedule an appointment, call 1-877-772-5772. Individuals should bring a photo ID when visiting a field office, and, depending on guidance from the Centers for Disease Control and Prevention for the county in which the field office is located, may be required to wear an appropriate face mask. In such circumstances, if visitors do not have a mask, one will be provided for them.

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WHEN CAN I RETIRE?

I'm the spouse of an employee retiring
with less than 30 years of service.

A SPOUSE BORN IN*	AT AGE 62, ANNUITY REDUCED BY**	OR	NO ANNUITY REDUCTION IF RETIREMENT AGE IS AT LEAST
1957	32.50%		66 and 6 months
1958	33.333%		66 and 8 months
1959	34.167%		66 and 10 months
1960 or later	35.00%		67

These reductions also apply to divorced spouses.

*A person attains a given age the day before their birthday, and those born on the first or second day of a month are eligible for an annuity beginning date on the first of that month.

**For the spouse of an employee who has less than 10 years of railroad service – If the spouse is already entitled to an age-reduced social security benefit, the age reduction in their tier I will be based on the age reduction applicable on the beginning date of their social security benefit, even if they are already full retirement age on their railroad retirement annuity beginning date.

NOTE – If the employee had any rail service before August 12, 1983, the spouse's tier II reduction remains 25% and their full retirement age remains 65 for tier II purposes.



WHEN CAN A WIDOW(ER) RETIRE?

A WIDOW(ER) BORN IN*	AT AGE 60, DEEMED TO BE AGE 62. ANNUITY WILL BE REDUCED BY	OR	NO ANNUITY REDUCTION IF RETIREMENT AGE IS AT LEAST
1957	19.26%		66 and 2 months
1958	19.50%		66 and 4 months
1959	19.73%		66 and 6 months
1960	19.95%		66 and 8 months
1961	20.16%		66 and 10 months
1962 or later	20.36%		67

*A person attains a given age the day before their birthday, and a widow(er) born on the first day of a month may be eligible for an annuity beginning date on the first of the month before their birth month.

NOTE — The maximum age reduction for remarried widow(er)s and surviving divorced spouses is 28.50% at age 60. The maximum age reduction for disabled surviving divorced spouses, disabled widow(er)s, and disabled remarried widow(er)s is also 28.50%.



WHEN CAN I RETIRE?

I'm an employee with less than 30 years of service.

AN EMPLOYEE BORN IN*	AT AGE 62, ANNUITY REDUCED BY	OR	NO ANNUITY REDUCTION IF RETIREMENT AGE IS AT LEAST**
1957	27.50%		66 and 6 months
1958	28.333%		66 and 8 months
1959	29.167%		66 and 10 months
1960 or later	30.00%		67

*A person attains a given age the day before their birthday, and those born on the first or second day of a month are eligible for an annuity beginning date on the first of that month.

****For an employee with less than 10 years of railroad service** – If they are already entitled to an age-reduced social security benefit, the age reduction applied to their tier I will be based on the age reduction applicable on the beginning date of their social security benefit, even if they are already full retirement age on their railroad retirement annuity beginning date.

NOTE – Employees with any railroad service before August 12, 1983: Tier II reduction remains 20% and full retirement age remains 65 for tier II purposes.

REQUIREMENTS FOR CREDITING MILITARY SERVICE TOWARD BENEFITS UNDER THE RAILROAD RETIREMENT ACT

Certain military service (M/S) may be used in the same way as railroad service months to provide eligibility for, or to increase the amount of benefits payable to railroad employees and their survivors. Credit is given only for active duty service in the Armed Forces of the United States.

FOR M/S TO BE CREDITABLE

Before entering active duty, the employee must have performed some creditable railroad service in the same calendar year, or the year just prior to the year, that the term of M/S began. If a railroad employer has already reported a service month in which M/S also occurred, the compensation for the M/S is still credited, up to the maximum amount reportable, for that month.

INVOLUNTARY M/S

Credit is given for any month during which an employee was required (inducted, drafted, called up) to leave a railroad job to enter federal active duty M/S and for the months thereafter that the individual was required to remain in active duty.

VOLUNTARY M/S

Restrictions on M/S credits apply for employees who voluntarily left railroad work and enlisted, re-enlisted, or were commissioned to active duty. The active duty must begin during a time declared to be a war, a war service period, or a state of national emergency. The dates of the latest declared creditable periods are:

- September 8, 1939, through June 14, 1948 (World War II war and post-war service period).
- December 16, 1950, through September 14, 1978 (Korean Conflict, Vietnam Era and post-Vietnam war service period).
- August 2, 1990, and continuing (Gulf Wars state of national emergency).

Other Restrictions if Entry was Voluntary

- M/S of an individual in active duty status December 31, 1946, is creditable through the end of that term of service.
- Voluntary M/S entered January 1, 1947, through June 14, 1948, is creditable only through June 14, 1948, when the national emergency ended.

- Voluntary M/S entered June 15, 1948, through December 15, 1950, is creditable only IF, upon completing M/S, the employee returned to railroad service in the same year, or the next calendar year immediately following, without any nonrailroad employment between the M/S and the return to railroad service.
- Voluntary M/S, including re-enlistment, which began after June 1973, is creditable only through September 14, 1978, when the national emergency ended.

RESERVIST ACTIVE DUTY

An individual's call from reserve status to active duty is considered involuntary entry, and it may be credited whenever the employee was required (called or recalled) to enter, and continue in, active federal duty. A call to active duty for training is included in this rule.

Local or State National Guard duty activities and assembly for drills or reserve meetings are not creditable M/S.

M/S THAT IS NOT CREDITABLE AS RAILROAD SERVICE

An employee's active duty M/S that does not meet the requirements described above cannot be used for added railroad service, but the M/S earnings will be considered as wages under the Social Security Act, as allowed by law, in the calculation of RRB benefits.

HOW TO RECEIVE M/S CREDIT

The employee, or his survivors, must submit proof that the M/S meets the crediting requirements. Official military service documents may be submitted to an RRB office at any time. The RRB will record and store the vital information and, upon request, will advise the number of months of additional railroad service credit.

Original documents will be returned promptly. Always include the railroad employee's name and social security number, a daytime telephone number, and return address with any material mailed to an RRB office.

General Information about Continuing in or Returning to Nonrailroad Employment after Retirement under the Railroad Retirement Act

Definition of Last Pre-Retirement Nonrailroad Employer

Your Last Pre-Retirement Nonrailroad Employer (LPE) is defined as any nonrailroad individual, company or institution for whom you are working on your annuity beginning date (ABD) or for whom you stopped working in order to receive an annuity. This includes work for a Canadian railroad that is not covered under the Railroad Retirement Act and work as an elected or appointed public official.

The nonrailroad employer is always your LPE if you are working in nonrailroad employment on your ABD or, if you have stopped working and you still hold rights to return to service of the nonrailroad employer on your ABD.

The nonrailroad employer is presumed to be your LPE if you are:

- The employee annuitant, and stopped working for the nonrailroad employer within six months immediately before your employee ABD, whether or not you also had been working for a railroad employer at the same time, or,
- The spouse annuitant, who may have never worked for a railroad, and stopped working for the nonrailroad employer within the six months immediately before your ABD.

When you were working for two or more persons, companies, or institutions within the six months preceding your ABD, all such employers are presumed to be your LPE.

If you begin nonrailroad employment after your ABD, the RRB does not consider that nonrailroad employment to be LPE.

Exceptions to LPE

Types of work that are not considered to be LPE are: military service, jury duty, mail handling by contract with the U.S. Postal Service, volunteer work, work for which you only receive payment of expenses, work as a member (owner) of a Limited Liability Corporation (LLC), or self-employment.

The Effect of LPE on Your Annuity

LPE does not affect your ABD. You are not required to relinquish rights or stop working for your LPE to receive annuity payments. However, reductions for LPE earnings on or after your ABD apply regardless of your age.

If you are:

- The employee annuitant, work for your LPE requires deductions of \$1 for every \$2 of LPE earnings from your Tier 2 and any supplemental annuity and your spouse's Tier 2.
- The spouse annuitant, work for your own LPE requires deductions of \$1 for every \$2 of your own LPE earnings from your spouse Tier 2.

LPE cannot reduce the employee or spouse Tier 2 or employee supplemental annuity by more than 50%.

Regular Work Deductions

If you are under Full Retirement Age, earnings over your Annual Earnings Exempt Amount from LPE may cause regular work deductions to your RRB annuity. Refer to Form G-77a *How Earnings Affect Payment of Retirement Annuities* for current Annual Earnings Exempt Amounts.

LPE vs. Self-Employment Determinations

The RRB considers some work claimed as self-employment to actually be work for an employer. Whether the RRB classifies a particular activity as self-employment or as work for an employer depends upon the circumstances of each case.

- A. **Self-Employed Independent Contractor** - Worked claimed as self-employment and the payment of self-employment taxes may be evidence of an independent contractor status, but are not conclusive. In general, if the arrangement between you and your client is such that you are not supervised by your client when you perform your services and you are not integrated into the staff or operations of that client, then you will be considered to be a self-employed independent contractor.

However, if your business is incorporated in other than a Limited Liability Corporation (LLC), you will be considered to be an employee of the corporation.

- B. **Work for an Employer** - If, on the other hand, you perform work for your client subject to the continuing authority of that client to supervise and direct the manner in which you work, or if you are integrated into the staff or operations of your client while performing such work, then you will be considered to be acting as an employee and your client is your LPE employer.

Note: If your client or employer is a railroad, the RRB would consider that work to be railroad employment, not LPE. Your annuity is not payable for any month you work for a railroad.

C. Comparison Chart

Self-Employed Independent Contractor	Work for an Employer
Maintains independent office or works in places not connected with the client's premises.	Works on the client's premises.
Uses own tools and equipment.	Uses the client's tools and equipment.
Has complete freedom as to the amount of time spent in rendering a particular service.	Has contract for continuing services over a long or indefinite period and devotes substantially all of working time to such service.
Bears a risk of profit or loss in the endeavor and, <ul style="list-style-type: none">• Receives payments for a particular result accomplished rather than regular remuneration on a time basis or• Has agreements or arrangements for the performance of specific services of limited duration for a particular project.	Receives periodic payment of regular remuneration rather than payment for a specific result or work product.
Performs similar services for persons other than one client.	Works only for one client.
Maintains own health or life insurance and retirement benefit plan.	Participates in the client's benefit programs such as health or life insurance and retirement plans.
	Performs duties similar in many respects to those previously performed as an employee before retirement.

LPE Determinations

The RRB will make LPE vs. self-employment determinations. You may request this decision before you apply for your annuity. Contact the nearest office of the RRB for further information. Most RRB offices are open to the public Monday through Friday from 9:00 am to 3:30 p.m. You may be asked to complete Form AA-4 *Self-Employment and Substantial Service Questionnaire*.



FROM THE DESK OF

JOHN BRAGG
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U.S. Railroad Retirement Board



For Publication
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Railroad Retirement Annuities and Pensions from Work Not Covered by Railroad Retirement or Social Security

Employee annuities paid under the Railroad Retirement Act are subject to dual benefit reductions when social security benefits are also payable. Railroad retirement annuities may also be reduced when certain public, non-profit, or foreign pension payments are due a retired employee.

The following questions and answers describe how railroad retirement annuities are affected when retired railroad employees are also entitled to pensions from employers not covered by railroad retirement or social security (noncovered service pensions).

1. When and how did the noncovered service pension reduction in employee annuities come about?

The noncovered service pension reduction in railroad retirement benefits was introduced by 1983 social security legislation which also applied to the tier I benefits of railroad retirement employee annuities. (Regular railroad retirement annuities are computed under a two-tier formula.)

Social security and railroad retirement tier I benefits replace a percentage of a worker's pre-retirement earnings. The formula used to compute benefits includes factors that ensure lower-paid workers get a higher return than highly-paid workers. For example, lower-paid workers could get a social security or tier I benefit that is about 55 percent of their pre-retirement earnings. The average replacement rate for highly-paid workers is about 25 percent. Before 1983, such benefits for people who worked in jobs not covered by railroad retirement or social security were computed as if they were long-term, low-wage workers. They received the advantage of the higher percentage benefits in addition to their other pension. The noncovered service pension reduction eliminated this advantage.

2. In general terms, which employees are affected by this reduction and what types of benefits would cause a reduction?

For employees first eligible for a railroad retirement annuity **and** a Federal, State or local government pension after 1985, there may be a reduction in the tier I portion of their annuity 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 railroad retirement or social security, such as from a non-profit organization or from a foreign government or a foreign employer. 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.

3. How is a noncovered service pension reduction applied to the tier I benefit?

Unlike the dual benefit offset for social security entitlement applied by deducting the amount of the social security benefit from the annuitant's tier I railroad retirement benefit, an alternate factor is used to compute the tier I benefit of annuitants with noncovered service pensions.

A tier I benefit is calculated in the same way as a social security benefit. An employee's creditable earnings are adjusted to consider the changes in wage levels over a worker's lifetime. This procedure, called indexing, increases creditable earnings from past years to reflect average national wage levels at the time of the employee's retirement. The adjusted earnings are used to calculate the employee's "average indexed monthly earnings," and a benefit formula is then applied to determine the gross tier I amount.

An employee's average indexed monthly earnings are separated into three earnings levels. Each level is multiplied by a specified percentage. The first level is multiplied by 90 percent, the second by 32 percent, and the final level by 15 percent. The results are added to obtain the basic tier I benefit rate. For those first eligible in 2022, the gross tier I benefit is equal to: 90 percent of the first \$1,024 of average indexed monthly earnings, plus 32 percent of the amount of those earnings over \$1,024 up to \$6,172, plus 15 percent of those earnings in excess of \$6,172.

Beginning with 1986 - for employees subject to the noncovered service pension reduction - the 90 percent factor is reduced in increments of 5 percent, providing factors ranging from 85 percent for employees with 29 years of "substantial railroad retirement and/or social security earnings" to 40 percent for those with 20 years (or less) of substantial earnings. Substantial earnings amounts usually vary from year to year. In 2022, earnings of \$27,300 would be considered a year of substantial earnings. In 2012, the figure was \$20,475. In 2002, it was \$15,750, and, in 1992, it was \$10,350. It is important to understand that a year of substantial earnings is not the same as a year of service. (Railroad employees eligible for a noncovered service pension who have 30 or more years of substantial railroad retirement and/or social security earnings are generally exempt from the reduction.)

For employees with relatively low noncovered service pensions, there is a guarantee that the amount of the tier I reduction cannot be more than 50 percent of the pension.

4. What is an example of how a noncovered service pension reduction affects an employee's annuity rate?

An employee born in 1960 is eligible for a noncovered service pension and has 20 years of service. His railroad retirement annuity begins with the first full month he is age 62 and his average indexed monthly earnings are \$1,800. The gross tier I amount, after reduction for the noncovered service pension, would be \$657, rather than the \$1,169 otherwise payable. A reduction for early retirement would also be applied to his annuity.

5. Are there exemptions from the noncovered service pension reduction?

As stated earlier, railroad employees eligible for a noncovered service pension who have 30 or more years of substantial railroad retirement and/or social security earnings are generally exempt from the reduction.

The noncovered service pension reduction also does not apply to Federal workers hired after December 31, 1983, and persons employed on December 31, 1983, by a nonprofit organization that was exempt from social security and became mandatorily covered under social security on that date.

6. Are any reductions made in railroad retirement spouse or widow(er)s' benefits if a public service pension is also payable?

Yes. The tier I portion of a spouse or widow(er) annuity may also be reduced for receipt of certain Federal, State or local government pensions 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. 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. For spouses and widow(er)s subject to the public pension reduction, the tier I reduction is equal to 2/3 of the amount of the public pension.

7. Where can more specific information be obtained on how noncovered service pensions affect railroad retirement benefits?

More information is available by visiting the RRB's website, **RRB.gov**, clicking on **FAQ** and then selecting **Public Service Pensions**, or by calling an RRB office toll-free at 1-877-772-5772. Persons can find the address of the RRB office servicing their area by calling the agency's toll-free number or by clicking on the **Field Office Locator** tab at RRB.gov. RRB field offices currently offer **limited in-person service by appointment**. To schedule an appointment, call 1-877-772-5772. Individuals should bring a photo ID when visiting a field office, and, depending on guidance from the Centers for Disease Control and Prevention for the county in which the field office is located, may be required to wear an appropriate face mask. In such circumstances, if visitors do not have a mask, one will be provided for them.

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FROM THE DESK OF

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U.S. Railroad Retirement Board



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Myths and Facts about Railroad Retirement

While the Railroad Retirement Board (RRB) attempts to make potential annuitants aware of the benefits available to them by regularly hosting pre-retirement seminars and issuing various news releases, booklets, and informational materials, there can still be misunderstandings. The following are some of the most common myths associated with the railroad retirement program.

MYTH: Working after leaving employment in the railroad industry will not affect your future entitlement to railroad retirement benefits.

FACT: Railroad employees who work in another industry after leaving rail employment may jeopardize their eligibility for certain benefits.

Under the Railroad Retirement Act (RRA), a *current connection* with the railroad industry is one of the eligibility requirements for occupational disability annuities and supplemental annuities, and is one of the factors that determine whether the RRB or the Social Security Administration (SSA) has jurisdiction over the payment of monthly benefits to survivors of a railroad employee.

Generally, you have a current connection with the railroad industry if you worked for a railroad in at least 12 of the 30 consecutive months before the month in which your annuity begins.

Full or part-time work for a nonrailroad employer before the month an employee's annuity begins may break a current connection.

However, there are exceptions to this. Please contact your local RRB field office if you plan to leave the industry before your retirement.

Railroad employees should know that their current connection status does not affect their eligibility for age and service (including 60/30 benefits) or total disability annuities. It also does not affect a spouse's eligibility for an annuity while the employee is alive, but as noted above, will determine whether the RRB or SSA has jurisdiction over survivor benefits.

MYTH: When calculating the tier II portion of an employee railroad retirement annuity, only the last 5 years of earnings are considered.

FACT: The formula for calculating the tier II portion of an employee annuity is based on the **60 months of highest earnings** (up to the annual tier II maximum taxable compensation) **and** total years

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of railroad service. While an employee's last 5 years of earnings often are his or her highest 60 months of earnings, it is not always the case.

MYTH: Work performed under the Social Security Act prior to working for a railroad will not be considered when calculating an employee's railroad retirement annuity.

FACT: The tier I portion of an employee annuity is based on the employee's **combined** railroad retirement and social security earnings and is computed by using a social security benefit formula. For purposes of this computation, no differentiation is made between the employee's earnings from railroad employment and his or her earnings from employment covered by the Social Security Act. Rather, these earnings are treated as if they were one continuous earnings history. As a result, tier I represents the social security benefit that would be payable if all of the employee's earnings had been covered under the social security system.

MYTH: Railroad employees are only eligible for railroad retirement benefits, and may not file for social security benefits.

FACT: Railroad employees who have sufficient quarters of coverage under the Social Security Act to qualify for benefits may file for and receive those benefits. However, it is important to note that since social security earnings are already considered in calculating the tier I portion of the employee's railroad retirement annuity, this tier must be reduced by the exact amount of the social security benefit an annuitant receives to prevent a duplication in benefits based on the same earnings record. Tier I is also reduced in the event a social security benefit is payable to the employee on the basis of another person's earnings. This reduction follows principles of social security law under which the beneficiary receives only the higher of any two benefits payable.

Whether or not receipt of a social security benefit is financially advantageous for an employee depends upon the amount of that benefit and the railroad retirement annuity tier I amount. If the social security benefit exceeds the railroad retirement tier I amount, it would be beneficial to receive the social security benefit. However, if it is equal to or less than the railroad retirement tier I amount, receipt of the social security benefit will not increase the total monthly benefits.

MYTH: There is a maximum number of months of service a railroad employee can be credited with when calculating a railroad retirement annuity.

FACT: While earnings are creditable only up to certain annual maximums on the amount of compensation subject to railroad retirement taxes, there is no limit on the number of service months for which an employee may earn credit in a lifetime. However, an employee may never be credited with more than 12 service months in any calendar year.

Benefit calculations take into account creditable compensation and total months of service, and the longer an employee works and the more he or she earns, the higher the benefit amount.

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MYTH: In order for military service to be credited as railroad retirement service months, the employee must have railroad service before and after the military service.

FACT: Active duty military service may be credited towards retirement benefits under certain conditions. To be creditable as compensation under the RRA, an employee's service in the U.S. Armed Forces must be preceded by railroad service in the same or preceding calendar year. With certain exceptions, the employee must also have entered active military service when the United States was at war or in a state of national emergency, or have served in the Armed Forces involuntarily.

If an employee's military service began during a war or national emergency period, any active duty service he or she was required to continue in beyond the end of the war or national emergency is creditable, except any voluntary service extending beyond September 14, 1978, is not creditable. Pertinent war and national emergency periods are August 2, 1990, to a date as yet undetermined, and December 16, 1950, to September 14, 1978.

It should be noted that railroad workers who voluntarily served in the Armed Forces between June 15, 1948, and December 15, 1950, when there was no declared national state of emergency in force, can be given railroad retirement credit for their military service if they performed railroad service in the year they entered or the year before they entered military service and if they returned to rail service in the year their military service ended or in the following year, and had no intervening nonrailroad employment.

If military service is not creditable under the RRA, the employee's military service earnings will be included as social security wages in the calculation of the tier I portion of his or her annuity.

MYTH: Any age reduction applied to an employee's annuity is removed once the individual reaches full retirement age.

FACT: For employees retiring between age 62 and their full retirement age with less than 30 years of service, age reductions are applied separately to the components of an annuity. **These age reductions are permanent.**

Full retirement age is gradually rising to age 67, depending on the year of birth. The maximum annuity reduction for retirement at age 62 is gradually increasing from 20 percent to 30 percent. This does not affect those who retire at ages 60 or 61 with 30 years of service.

MYTH: If you are the spouse of a railroad retirement annuitant, and you are receiving social security benefits, you shouldn't apply for an annuity with the RRB because no benefits will be payable.

FACT: While certain benefits can cause a reduction in a portion of the railroad retirement annuity otherwise payable, **it is to the spouse's financial advantage to apply for a railroad retirement spouse annuity.**

The tier I portion of a spouse annuity is reduced for any social security entitlement, regardless of whether the social security benefit is based on the spouse's own earnings, the employee's earnings, or

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the earnings of another person. As previously stated, this reduction follows principles of social security law, which limit payment to the higher of any two or more benefits payable to an individual at one time. The tier I portion of a spouse annuity may also be reduced for receipt of a public service pension (see next myth).

While these offsets can reduce or even erase the tier I benefit amount otherwise payable to a spouse, **they do not affect the tier II benefit** potentially payable to that spouse.

MYTH: If the spouse of a railroad retirement annuitant is entitled to a teacher's pension, his or her railroad retirement spouse annuity is not reduced.

FACT: The tier I portion of a spouse annuity may be reduced for receipt of any Federal, State, or local government pension, including a teacher's pension, separately payable to the spouse based on the spouse's own earnings. The reduction generally does not apply if the employment on which the pension is based was covered under the Social Security Act throughout the last 60 months of public employment.

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. For spouses subject to the public pension reduction, the tier I reduction is equal to 2/3 of the amount of the public pension.

MYTH: Tier II is the railroad employee's spouse's benefit.

FACT: Employee and spouse railroad retirement annuities are computed under a tier format established by the 1974 RRA. Tier I is based on the employee's combined railroad retirement and social security earnings and is computed by using a social security benefit formula. The basic tier I of a spouse annuity is equal to 50 percent of the employee's tier I. Tier II is based on the employee's average monthly earnings and years of service in the railroad industry. The basic tier II of a spouse annuity is 45 percent of the employee's tier II amount. Benefits payable to a spouse are separate from those payable to the employee, and do not affect the employee's annuity.

MYTH: A spouse must have been married to the employee prior to his or her retirement in order to be eligible for a railroad retirement spouse annuity.

FACT: Requirements for a spouse annuity based on age depend on the employee's age and years of creditable railroad service, and the spouse's age. The employee must be receiving an annuity, and the spouse must file an application for benefits.

The employee and his or her spouse need to have been married for at least one year, but they **do not** need to have been married prior to the employee's retirement.

*The information presented here is general in nature. For answers to specific questions, please contact an RRB field office by calling toll-free, 1-877-772-5772. Additional information on the topics presented here is also available by visiting **RRB.gov**.*



FROM THE DESK OF

JOHN BRAGG
LABOR MEMBER

U.S. Railroad Retirement Board



For Publication
April 2024

Railroad Retirement Annuitants May Need to Increase Tax Withholding at Age 62

Certain portions of a railroad retirement annuity are treated differently for federal income tax purposes. The following questions and answers explain these differences and address the importance of individuals establishing accurate tax withholding from their annuities. Certain annuitants, including those retiring at age 60 with at least 30 years of service, and some occupational disability annuitants, need to pay close attention to changes in tax withholding when they turn age 62.

1. How are annuities paid under the Railroad Retirement Act treated under federal income tax laws?

A railroad retirement annuity is a single payment comprised of one or more of the following components, depending on the annuitant's age, the type of annuity being paid, and eligibility requirements: a Social Security Equivalent Benefit (SSEB) portion of tier I, a Non-Social Security Equivalent Benefit (NSSEB) portion of tier I, tier II, and a supplemental annuity.

In most cases, part of a railroad retirement annuity is treated like a social security benefit for federal income tax purposes, while other parts of the annuity are treated like private pensions for tax purposes. Consequently, most annuitants who are U.S. citizens or residents are sent **two** tax statements from the Railroad Retirement Board (RRB) each January, even though they receive only a single annuity payment each month. While non-resident aliens also receive a single monthly railroad retirement annuity payment, they too may receive more than one tax statement from the RRB.

2. What information is shown on the railroad retirement tax statements sent to annuitants in January?

One tax statement, Form RRB-1099 (*only sent to U.S. citizens or residents*), shows the SSEB portion of the tier I or special minimum guaranty payments made during the tax year, the amount of any such benefits that an annuitant may have repaid to the RRB during the tax year, and the net amount of these payments after subtracting the repaid amount. The amount of any offset for workers' compensation, the amount of federal income tax withheld from these payments, and Medicare premiums deducted are also shown.

The other tax statement, Form RRB-1099-R (*also only sent to U.S. citizens or residents*), shows the NSSEB portion of tier I, tier II, and supplemental annuity paid to the annuitant during the tax year, and may show an employee contribution amount. The NSSEB portion of tier I along with tier II are considered contributory pension amounts and are shown as a single combined amount in the Contributory Amount Paid box (Item 4) on the statement. The supplemental annuity is considered a

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noncontributory pension amount and is shown as a separate item on the statement. Medicare premium deductions will be reported on Form RRB-1099-R if the annuitant does not receive Form RRB-1099.

Non-resident aliens are sent Form RRB-1042S, and may receive more than one of these tax statements. Separate tax statements are released reflecting the SSEB portion of tier I that is reported on Form RRB-1099 and the amounts reported on Form RRB-1099-R, the NSSEB portion of tier I, tier II, and supplemental annuity.

3. Can annuitants request federal income tax withholding from their annuity payments?

Yes. Annuitants may request that federal income tax be withheld from their annuity payments. To add or change federal income taxes withheld from SSEB payments, an annuitant must complete Internal Revenue Service (IRS) Form W-4V, *Voluntary Withholding Request*, and send it to their local RRB field office. To add or change the amount of federal taxes withheld from NSSEB payments, annuitants must file Form IRS W-4P, *Withholding Certificate for Periodic Pension or Annuity Payments*, (available at **IRS.gov**) and send it to their local RRB field office. If an annuitant does not file a Form IRS W-4P with the RRB and the taxable annuity components exceed the IRS minimum mandatory withholding amount, taxes will automatically be withheld as if the annuitant is single. Railroad retirement annuities are not taxable by any state, so state tax withholding from railroad retirement payments is not possible. Annuitants that wish to add or change federal tax withholding from their annuity payments may contact an RRB field office for assistance. While the RRB may provide the necessary forms for withholding, it is the *annuitant's* responsibility to determine how much federal income tax withholding is needed. Annuitants are encouraged to discuss the amount of withholding needed with a tax advisor or the IRS.

4. Which railroad retirement annuity components are treated like social security benefits for federal income tax purposes?

The SSEB portion of tier I - the part of a railroad retirement annuity equivalent to a social security benefit based on comparable earnings and included on Form RRB-1099 (or Form RRB-1042S for nonresident aliens) - must be reported on an individual's federal income tax return and is treated for tax purposes the same way as a social security benefit. The amount of the SSEB portion that may be subject to federal income tax, if any, depends on the annuitant's income. (To determine if any amount of the SSEB portion is taxable, please refer to IRS publication 915, *Social Security and Equivalent Railroad Retirement Benefits*.) If part of the SSEB is taxable, how much is taxable depends on the total amount of an annuitant's annuity and other income. Usually, the higher that total amount, the greater the taxable part of an individual's annuity.

5. Which railroad retirement annuity components are treated like private pensions for federal income tax purposes?

The NSSEB portion of tier I, tier II, and supplemental annuities - which are included on Form RRB-1099-R (or Form RRB-1042S for nonresident aliens) - are all treated like private pensions for federal income tax purposes. In some cases, primarily those in which early retirement annuities are payable to retired employees and spouses between ages 60 and 62, some occupational disability annuities, and other categories of unique RRB entitlements, the entire annuity may be treated like a

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private pension. This is because social security benefits based on age and service are not payable before age 62, social security disability benefit entitlement requires *total* disability, and the Social Security Administration does not pay some categories of beneficiaries paid by the RRB.

6. How are 60/30 annuity payments taxed?

A railroad employee with 30 or more years of creditable rail service is eligible for a regular annuity based on age and service the first full month they are age 60. The employee's spouse is also eligible for an annuity the first full month they are age 60. These "60/30" annuity payments are taxed as follows:

60/30 annuity payments before the employee or spouse is age 62: All benefits paid to an employee before age 62 are considered NSSEB and are fully taxable and reported on Form RRB-1099-R (or Form RRB-1042S for nonresident aliens). This includes all tier I and tier II components and any supplemental annuity that might be payable. Spouse annuities are also fully taxable and reported on Form RRB-1099-R (or Form RRB-1042S for nonresident aliens) until both the employee and spouse are age 62.

60/30 annuity payments after the employee is age 62: Once the employee turns age 62, part of the tier I component is still considered NSSEB, but some is now considered SSEB because equivalent social security benefits are payable at age 62. Since these equivalent social security benefits paid at age 62 would be reduced for early retirement, while 60/30 benefits are not reduced, the RRB computes the portion of the tier I component comparable to that payable under social security, and reports the SSEB amount on Form RRB-1099 (or Form RRB-1042S for nonresident aliens). The SSEB portion of spouse annuities is calculated the same way, except the employee and spouse must both be at least 62 for spouse annuities to be considered SSEB.

WARNING for 60/30 annuitants who begin receiving annuities before age 62: As noted previously, when the employee turns age 62 (or the spouse turns age 62, provided the employee is also at least age 62) the taxability of tier I components changes from all private pension-equivalent benefits to a split between SSEB and NSSEB portions. For many annuitants this means that the tax withholding in place will **automatically decrease**, and sometimes this change is significant. This is because any Form IRS W-4P (or former RRB W-4P) on file with the RRB will not consider the SSEB portion of tier I in the withholding calculation. In many cases, the SSEB portion will be subject to taxation because of the total amount of the annuitant's income, and the decrease in withholding may result in an insufficient amount of taxes being withheld. Notices are released to annuitants advising of the change in the withholding amount, and they are encouraged to discuss the issue with a tax advisor or the IRS to determine the correct amount of withholding for them. Annuitants often need to file a new tax withholding election form with the RRB to increase withholding following this change, otherwise they may face a larger tax liability than expected when filing federal income tax returns the following year.

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7. Are occupational disability annuitants subject to the same change in tax withholding at age 62?

Those occupational disability annuitants not qualified for a period of disability (also known as a "Disability Freeze") as defined under the Social Security Act will similarly see the taxability of tier I components change at age 62.

8. Where can an annuitant find more information about the taxability of railroad retirement annuities?

More information regarding the taxability of railroad retirement annuities can be found in RRB booklet TXB-85, *The Taxation of Railroad Retirement Act Annuities*. This booklet is available at **RRB.gov** (select Benefits from the main menu, Income Tax, then General Information), or by contacting the RRB toll free at 1-877-772-5772.

Information is also available on the IRS website at IRS.gov. To learn more about how SSEB payments, repayments, and tax withholding amounts should be reported to the IRS, refer to IRS Publication 915, *Social Security and Equivalent Railroad Retirement Benefits*. For additional information about how pension payments, repayments, and tax withholding should be reported to the IRS, or how NSSEB contributory amounts paid are taxed, refer to IRS Publication 575, *Pension and Annuity Income*, and/or IRS Publication 939, *General Rule for Pensions and Annuities*.

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FROM THE DESK OF

JOHN BRAGG
LABOR MEMBER

U.S. Railroad Retirement Board



For Publication
April 2022

Buyouts and Railroad Retirement Benefits

Railroad employees frequently ask the Railroad Retirement Board (RRB) how accepting a buyout from a railroad employer affects their future eligibility for benefits under the Railroad Retirement and Railroad Unemployment Insurance Acts. The following questions and answers provide information on this subject.

1. Would leaving railroad work and accepting a buyout mean that an employee forfeits any future entitlement to an annuity under the Railroad Retirement Act?

As long as an employee has acquired at least 10 years (120 months) of creditable railroad service, or 5 years (60 months) of creditable railroad service performed after 1995, he or she would still be eligible for a regular railroad retirement annuity upon reaching retirement age, or, if determined to be totally disabled, for an annuity before retirement age, regardless of whether or not a buyout was ever accepted.

However, if a person permanently leaves railroad employment before attaining retirement age, the employee may not be able to meet the requirements for certain other benefits, particularly the current connection requirement for annuities based on occupational, rather than total, disability and for supplemental annuities paid by the RRB to career employees.

In addition, if an employee does not have a current connection, the Social Security Administration (SSA), rather than the RRB, would have jurisdiction of any survivor benefits that become payable on the basis of the employee's combined railroad retirement and social security covered earnings. The survivor benefits payable by the RRB are generally greater than those paid by SSA.

2. How are buyout payments treated under the Railroad Retirement and Railroad Unemployment Insurance Acts?

Buyout payments that result from the abolishment of an employee's job are creditable as compensation under the Railroad Retirement and Railroad Unemployment Insurance Acts. While the actual names of these employer payments may vary, the treatment given them by the RRB will depend upon whether the employee **relinquished or retained** his or her job rights. If the employee **relinquishes job rights** to obtain the compensation, the RRB considers the payment a **separation (or severance) allowance**. This compensation is credited to either the month last worked or, if later, the month in which the employee relinquishes his or her employment relationship. While all compensation subject to tier I payroll taxes is considered in the computation of a railroad retirement annuity, no additional service months can be credited after the month in which rights are relinquished.

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The RRB considers the buyout payment a **dismissal allowance**, even though the employer might designate the payment a separation allowance, if the employee **retains job rights** and receives monthly payments credited to the months for which they are allocated under the dismissal allowance agreement. This is true even if the employee relinquishes job rights after the end of the period for which a monthly dismissal allowance was paid. However, supplemental unemployment or sickness benefits paid under an RRB-approved nongovernmental plan by a railroad or third party are **not** considered compensation for railroad retirement purposes.

3. Suppose an employee is given a choice between (1) accepting a separation allowance, relinquishing job rights and having the payment he or she receives credited to one month or (2) accepting a dismissal allowance, retaining job rights and having the payment credited to the months for which it is allocated. What are some of the railroad retirement considerations the employee should keep in mind?

Individual factors such as an employee's age and service should be considered.

For example, if an employee is already eligible to begin receiving a railroad retirement annuity, he or she may find it advantageous to relinquish job rights, accept a separation allowance, and have the annuity begin on the earliest date allowed by law. Any periodic payments made after that date would not preclude payment of the annuity because the employee has relinquished job rights.

On the other hand, some younger employees may find it more advantageous to retain job rights and accept monthly compensation payments under a dismissal allowance if these payments would allow them to acquire 120 months of creditable rail service (or 60 months of creditable rail service performed after 1995) and establish future eligibility for a railroad retirement annuity. Also, additional service months might allow a long-service employee to acquire 30 years of service, which is required for early retirement at age 60, or 25 years of rail service, which could help an employee maintain the current connection needed to meet the eligibility requirements for an occupational disability annuity or survivor annuity under the Railroad Retirement Act.

4. How would acquiring 25 years of railroad service help an employee maintain a current connection?

A current connection determination is made when an employee files for a railroad retirement annuity. (If an employee dies before applying for an annuity, it is made when an applicant files for a survivor annuity.)

The current connection requirement is normally met if the employee has railroad service in at least 12 of the 30 consecutive months immediately preceding the month his or her railroad retirement annuity begins. If the employee died before retirement, railroad service in at least 12 months in the 30 months before the month of death will meet the current connection requirement for the purpose of paying survivor benefits.

If an employee does not qualify as explained above, but has 12 months of service in an earlier 30-month period, he or she may still meet the requirement if the employee does not work outside the railroad industry in the interval between the 30-month period and the month the employee's annuity begins, or the month of death if that occurs earlier. Full or part-time nonrailroad employment in that

interval can break the employee's current connection. Self-employment in an unincorporated business will not break a current connection. However, if the business is incorporated the individual is considered to be an employee of the corporation, and such self-employment can break a current connection. All self-employment will be reviewed to determine if it meets the standards for maintaining a current connection.

A current connection can be maintained for purposes of supplemental and survivor annuities, but **not** occupational disability annuities, if the employee completed 25 years of railroad service, was involuntarily terminated without fault from his or her last job in the railroad industry, and did not thereafter decline an offer of employment in the same class or craft in the railroad industry, regardless of the distance to the new position. If all of these requirements are met, an employee's current connection may not be broken, even if the employee works in regular nonrailroad employment after the 30-month period and before the month his or her railroad retirement annuity begins, or, the month of his or her death. This exception to the normal current connection requirements became effective October 1, 1981, but only for employees who were alive on that date, and who left the rail industry on or after October 1, 1975.

5. Would the acceptance of a buyout have any effect on determining whether an employee could maintain a current connection under the exception provision discussed in the last paragraph of the answer to Question 4?

In cases where an employee has **no option** to remain in the service of his or her employer, the termination of the employment is considered involuntary, regardless of whether the employee does or does not receive a separation or dismissal allowance.

However, an employee who **chooses** a separation allowance instead of keeping his or her seniority rights to railroad employment would, for railroad retirement purposes, generally be considered to have voluntarily terminated railroad service, and, consequently, would not maintain a current connection under the exception provision.

6. An employee with 25 years of service is offered a buyout with the option of either taking payment in a single lump sum, or receiving monthly payments until retirement age. Could the method of payment affect the employee's current connection under the exception provision discussed in the last paragraph of the answer to Question 4?

If the employee had the **choice to remain** in employer service and **voluntarily relinquished** job rights prior to accepting the payments, his or her current connection would not be maintained under the exception provision, **regardless of which payment option is chosen**. Therefore, nonrailroad work after the 30-month period and before retirement, or the employee's death if earlier, could break the employee's current connection. Such an employee could only meet the current connection requirement under the normal procedures.

7. Is it always advantageous to maintain a current connection?

While a current connection is generally advantageous for railroad retirement purposes, the costs of maintaining a current connection could outweigh its value, depending on individual circumstances.

There may be other financial or personal factors involved besides railroad retirement eligibility and/or the preservation of a current connection, and these will vary from individual to individual.

8. Are separation and dismissal allowances subject to railroad retirement payroll taxes?

Under the Railroad Retirement Tax Act, which is administered by the Internal Revenue Service, payments of compensation, including most buyouts, are subject to tier I, tier II and Medicare taxes on earnings up to the annual maximum earnings bases in effect when the compensation is paid. This is true whether payment is made in a lump sum or on a periodic basis.

To the extent that a separation allowance does not yield additional tier II railroad retirement service credits, a lump sum, approximating part or all of the railroad retirement tier II payroll taxes deducted from the separation allowance, will be paid upon retirement to employees meeting minimum service requirements or their survivors. This lump sum applies to separation allowances made after 1984.

If an employee receives a dismissal allowance, he or she receives service credits for the tier II taxes deducted from the dismissal allowance payments. Consequently, such a lump sum would not be payable.

If an employee has an option about how a buyout is to be distributed, he or she should consider the impact of both payroll taxes and income tax on the payments. Employees with questions in this regard should contact the payroll department of their railroad employer and/or the Internal Revenue Service.

9. Would an employee be able to receive unemployment or sickness benefits paid by the RRB after accepting a separation allowance?

An employee who accepts a separation allowance cannot receive unemployment or sickness benefits for roughly the period of time it would have taken to earn the amount of the allowance at his or her straight-time rate of pay. This is true regardless of whether the allowance is paid in a lump sum or installments. For example, if an employee's salary was \$5,000 a month without overtime pay and the allowance was \$20,000, he or she would be disqualified from receiving benefits for approximately four months.

10. Can an employee receive unemployment benefits after his or her separation allowance disqualification period has ended?

An employee who has not obtained new employment by the end of the disqualification period and is still actively seeking work may be eligible for unemployment benefits at that time. The employee must meet all the usual eligibility requirements, including the availability for work requirement. An employee can establish his or her availability for work by demonstrating a willingness to work and making significant efforts to obtain work. In judging the employee's willingness to work, the RRB considers, among other factors, the reason the employee accepted the separation allowance and the extent of his or her work-seeking efforts during the disqualification period.

11. How would the acceptance of a dismissal allowance affect an employee's eligibility for unemployment and sickness benefits?

Payments made under a dismissal allowance would be considered remuneration under the Railroad Unemployment Insurance Act and the employee would not be eligible for unemployment or sickness

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benefits during the period the dismissal allowance is being paid. The employee may, of course, be eligible for benefits after the end of this period if he or she is still actively seeking work or is unable to work because of illness or injury.

12. Where can employees get more specific information on how benefits payable by the RRB are affected by a buyout?

Individuals with questions about how buyouts affect their RRB benefits 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 increased call volume due to the COVID-19 pandemic.

On April 25, 2022, RRB field offices will begin to offer in-person service on a **limited** basis and **by appointment**. To schedule an appointment, call 1-877-772-5772. Individuals should bring a photo ID when visiting a field office, and, depending on guidance from the Centers for Disease Control and Prevention for the county in which the field office is located, *may* be required to wear an appropriate face mask. In such circumstances, if visitors do not have a mask, one will be provided for them.

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FROM THE DESK OF
JOHN BRAGG
LABOR MEMBER



U.S. Railroad Retirement Board

For Publication
May 2023

Private Railroad Pensions May Reduce RRB Supplemental Annuities

Railroad retirement annuitants are reminded that receipt of a private railroad pension may reduce the amount of a supplemental annuity payable by the Railroad Retirement Board (RRB). The following questions and answers provide information on this subject and how 401(k) plans are affected by the Railroad Retirement Act (RRA).

1. What are the eligibility requirements for a supplemental annuity?

Monthly supplemental annuities are payable to employee annuitants with 25 or more years of railroad service who have at least one month of creditable railroad service before October 1981, and a "current connection" with the railroad industry. Annuitants with 30 years or more of railroad service may begin receiving a supplemental annuity at age 60, whereas annuitants with 25-29 years of service may do so at age 65. (Disabled annuitants under full retirement age, which is age 67 for persons born in 1960 or later, must relinquish employment rights for a supplemental annuity to be paid by the RRB.) Monthly supplemental annuity rates vary based on an annuitant's years of railroad service. The maximum monthly supplemental annuity rate is \$43.

2. How is a "current connection" determination made under the RRA?

A current connection determination is made when an employee files for a railroad retirement annuity. If an employee worked for a railroad in at least 12 months in the 30 months immediately preceding the beginning date of his or her railroad retirement annuity, the employee has a current connection.

Employees who do not meet this requirement, but who have at least 12 months of railroad service in an earlier 30-month period, *may* still qualify for a current connection. This alternative generally applies if an employee did not have any regular employment outside the railroad industry after the end of that last 30-month period that included 12 months of railroad service, and before the month his or her annuity begins.

A current connection can also be "deemed" for purposes of a supplemental annuity if the employee completed 25 years of railroad service, was involuntarily terminated without fault from his or her last job in the railroad industry, and did not thereafter decline an offer of employment in the same class or craft in the railroad industry regardless of the distance to the new position.

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3. How does the receipt of a private railroad pension affect payment of a supplemental annuity?

If a retired employee also receives a private pension funded entirely, or in part, by a railroad employer, the supplemental annuity is permanently reduced by the amount of the monthly private pension that is based on the railroad employer's contributions. However, if the employer reduces the pension for the employee's entitlement to a supplemental annuity, the reduction amount is restored to the supplemental annuity (but does not raise it over the \$43 maximum). There is **no** reduction for a pension paid by a railroad labor organization.

4. What if an employee elects to receive a private railroad pension in a lump-sum payment instead of as a monthly benefit?

If a retired employee elects to receive his or her pension in a lump-sum payment instead of as a monthly benefit, the supplemental annuity is reduced in the same way as it would be if the employee was receiving the monthly benefit. If the lump sum is paid in installments, the installment payments are not considered monthly benefit payments, but part of the single lump-sum payment.

5. Does the receipt of a 401(k) plan distribution reduce the amount of a supplemental annuity?

No. In a legal opinion issued in January 2014, the RRB's General Counsel determined that 401(k) plans should not be considered supplemental pension plans as defined by the RRA and, therefore, employee supplemental annuities should **not** be reduced due to the receipt of 401(k) distributions.

6. Are employee contributions to a 401(k) plan subject to railroad retirement tier I and tier II payroll taxes?

Yes. The treatment of 401(k) plans under railroad retirement law conforms with the treatment of such plans under social security law. Consequently, employee contributions to 401(k) plans are subject to railroad retirement payroll taxes and are treated as creditable compensation for railroad retirement benefit purposes. (For example, an employee earning \$40,000 a year, but who has 10 percent of his earnings deferred under a 401(k) plan, would have only \$36,000 reported to the Internal Revenue Service as earnings subject to Federal income tax. However, the entire \$40,000 would be subject to railroad retirement payroll taxes and therefore creditable as compensation under the RRA.)

7. How can a person get more information about how private railroad pensions and 401(k) plan payments affect supplemental annuities?

More information is available by visiting the RRB's website, **RRB.gov**, or by calling an RRB office toll-free at 1-877-772-5772. Persons can find the address of the RRB office serving their area by clicking on the **Field Office Locator** tab at RRB.gov or by calling the agency's toll-free number. RRB field offices currently offer **limited in-person service by appointment**. To schedule an appointment, call 1-877-772-5772. Individuals should bring a photo ID when visiting a field office, and, depending on guidance from the Centers for Disease Control and Prevention for the county in which the field office is

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located, may be required to wear an appropriate face mask. In such circumstances, if visitors do not have a mask, one will be provided for them.

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FROM THE DESK OF
JOHN BRAGG
LABOR MEMBER



U.S. Railroad Retirement Board

For Publication
June 2023

Unemployment and Sickness Benefits for Railroad Employees

The Railroad Retirement Board (RRB) administers the Railroad Unemployment Insurance Act (RUIA), which provides qualified railroaders with unemployment benefits when they become unemployed but are ready, willing, and able to work, and sickness benefits when they cannot work because of sickness or injury. Sickness benefits are also payable to female railroad workers for periods when they are unable to work because of health conditions related to pregnancy, miscarriage, or childbirth. A new benefit year begins each July 1.

The following questions and answers describe these benefits, their eligibility requirements, and how to apply for and claim them. It also explains how the recent resumption of a Federal sequestration order reduces benefit rates.

1. What are the eligibility requirements for railroad unemployment and sickness benefits in July 2023?

To qualify for **normal** railroad unemployment or sickness benefits, an employee must have had railroad earnings of at least \$4,387.50 in calendar year 2022, counting no more than \$1,755 for any one month. Those who were first employed in the rail industry in 2022 must also have at least five months of creditable railroad service in 2022.

Employees can easily determine their eligibility for unemployment and sickness benefits by checking their Certificate of Service Months and Compensation (Form BA-6). The BA-6 includes a field in the lower-right corner that indicates if an employee is eligible to claim unemployment or sickness benefits. The RRB mails these forms each June to railroad employees with creditable compensation in the previous calendar year.

Under certain conditions, employees who do not qualify based on their 2022 earnings *may* still be able to receive benefits in the new benefit year. Employees with at least 10 years of service (120 or more months of service) who received normal benefits in the benefit year ending June 30, 2023, may be eligible for **extended** benefits. Employees with at least 10 years of service (120 or more months of service) *might* qualify for **accelerated** benefits if they have railroad earnings of at least \$4,737.50 in 2023, not counting earnings of more than \$1,895 in any one month.

To qualify for **extended** unemployment benefits, a claimant must not have voluntarily quit work without good cause and not have voluntarily retired. To qualify for extended sickness benefits, a claimant must not have voluntarily retired and must be under age 65.

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To be eligible for **accelerated** benefits, a claimant must have 14 or more consecutive days of unemployment or sickness; not have voluntarily retired or, if claiming unemployment benefits, quit work without good cause; and, when claiming sickness benefits, be under age 65.

2. What is the daily benefit rate payable in the new benefit year beginning July 1, 2023?

Almost all employees will qualify for the maximum daily benefit rate of \$87. Benefits are generally payable for the number of days of unemployment or sickness over four in 14-day claim periods, which yields \$870 for each two full weeks of unemployment or sickness. Sickness benefits payable for the first 6 months after the month the employee last worked are subject to tier I railroad retirement payroll taxes, unless benefits are being paid for an on-the-job injury.

Under provisions of the Budget Control Act of 2011, and a subsequent sequestration order to implement mandated cuts, railroad unemployment and sickness benefits were reduced by 5.7 percent for days after September 30, 2020, and before January 3, 2021. Beginning January 3, 2021, pandemic-related legislation suspended sequestration until 30 days after the end of the Presidential declaration of a national emergency concerning COVID-19.

On April 10, 2023, President Biden signed legislation declaring an immediate end to the national emergency. Consequently, **on May 10, 2023, sequestration resumed** when the RRB began reducing railroad unemployment and sickness insurance benefits by 5.7 percent. This reduction percentage will remain in effect through September 30, 2031.

By applying the sequestration reduction of 5.7 percent, the maximum benefit in a 2-week period decreases from \$870 to \$820.41. As sickness benefits paid to an employee within six months from the date last worked for a reason other than an on-the-job injury are subject to regular tier I railroad retirement taxes, a further reduction of 7.65 percent is applied to those benefits. The maximum amount payable for sickness benefits subject to tier I payroll taxes will be \$757.65 over two weeks.

3. How long are these benefits payable?

Normal unemployment or sickness benefits are each payable for up to 130 days (26 weeks) in a benefit year. The total amount of each kind of benefit which may be paid in the new benefit year cannot exceed the employee's railroad earnings in calendar year 2022, counting earnings up to \$2,267 per month.

If normal benefits are exhausted, extended benefits are payable for up to 65 days (during 7 consecutive 14-day claim periods) to employees with at least 10 years of service (120 or more cumulative service months).

4. What is the waiting period requirement for unemployment and sickness benefits?

There is a 7-day waiting period requirement, prior to any benefits becoming payable under the RUIA. During the first 14-day claim period, benefits are payable for every day claimed in excess of seven days. Subsequent claims are paid for the number of days of unemployment or sickness over four in each 14-day registration period. Initial sickness claims must also begin with four consecutive days of sickness. If an employee has at least five days of unemployment or five days of sickness in a 14-day

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period, he or she should still file for benefits to satisfy the waiting period for the current benefit year. Separate waiting periods are required for unemployment and sickness benefits. However, only one seven-day waiting period is generally required during any period of continuing unemployment or sickness, even if that period continues into a subsequent benefit year.

5. Are there special waiting period requirements if unemployment is due to a strike?

If a worker is unemployed because of a strike conducted in accordance with the Railway Labor Act, benefits are not payable for days of unemployment during the first 14 days of the strike, but benefits are payable during subsequent 14-day periods.

If a strike is in violation of the Railway Labor Act, unemployment benefits are not payable to employees participating in the strike. However, employees not among those participating in such an illegal strike, but who are unemployed on account of the strike, may receive benefits after the first two weeks of the strike.

While a benefit year waiting period cannot count toward a strike waiting period, the 14-day strike waiting period may count as the benefit year waiting period if a worker subsequently becomes unemployed for reasons other than a strike later in the benefit year.

6. Can employees in train and engine service receive unemployment benefits for days when they are standing by or laying over between scheduled runs?

No, not if they are standing by or laying over between regularly assigned trips or they missed a turn in pool service.

7. Can extra-board employees receive unemployment benefits between jobs?

Yes, but only if the miles and/or hours they actually worked were less than the equivalent of normal full-time work in their class of service during the 14-day claim period. Entitlement to benefits would also depend on the employee's earnings.

8. How would an employee's earnings in a claim period affect his or her eligibility for unemployment benefits?

If a claimant's earnings for days worked, and/or days of vacation, paid leave, or other leave in a 14-day registration period are more than a certain indexed amount, no benefits are payable for **any** days of unemployment in that period. That registration period, however, can be used to satisfy the waiting period.

Earnings include pay from railroad and non-railroad work, as well as part-time work and self-employment. Earnings also include pay that an employee would have earned except for failure to mark up or report for duty on time, or because he or she missed a turn in pool service or was otherwise not ready or willing to work. For the benefit year that begins July 2023, earnings of \$1,755 or more in a claim period will disqualify a claim for unemployment benefits, even if there are more than 4 days of unemployment claimed. This amount corresponds to the base year monthly compensation amount used in determining eligibility for benefits in each year. Also, even if an earnings test applies on the first

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claim in a benefit year, this will not prevent the first claim from satisfying the waiting period in a benefit year.

Earnings of \$15 or less per day from work which is substantially less than full-time and not inconsistent with the holding of normal full-time employment may be considered subsidiary remuneration and may not prevent payment of any days in a claim. However, a claimant must report all full and part-time work on each claim, regardless of the amount of earnings, so the RRB can determine if the work affects benefits.

9. How does a person apply for and claim unemployment benefits?

Employees can apply for and claim unemployment benefits online or by mail. (Limited in-person service by appointment is also available.) Individuals who have a **myRRB** account at **RRB.gov** can file their applications and biweekly claims online. Employees can create a myRRB account at **RRB.gov/myRRB** by clicking on the button labeled **Sign in with login.gov**. Establishing an account while working will expedite the filing process for future unemployment benefits, and provide ready access to other online services.

To apply by mail, employees must obtain an *Application for Unemployment Benefits* (Form UI-1) from **RRB.gov**, their labor organization, or railroad employer. The completed application should be mailed to their local RRB field office as soon as possible and must be filed within 30 days from the date the employee became unemployed, or the first day for which he or she wishes to claim benefits. Benefits may be lost if the application is filed late. Employees filing a late unemployment application (or claim) should include a signed statement explaining why they cannot meet the required time frame.

Persons can find the address of the RRB office serving their area by visiting **RRB.gov** and clicking on **Field Office Locator**, or by calling the agency toll-free at 1-877-772-5772 and selecting the appropriate option from the automated menu.

The local RRB field office reviews the completed application, whether it was submitted online or by mail, and notifies the applicant's current railroad employer and base-year employer, if different. The employer has the right to provide information about the benefit application.

After processing the application and confirming benefit eligibility, biweekly claim forms are provided to the claimant for as long as he or she remains unemployed and eligible for benefits. If a claimant filed an online application, claim forms are *only* made available online. If a claimant filed a paper application, his or her *first* claim form is both available online and mailed to him or her. If the claimant returns the paper claim, future claims will be mailed to him or her. If the claimant files the claim online, all subsequent claim forms will *only* be made available online, and will no longer be mailed. Claimants **must not** file both an online and a paper claim form for the same period(s). Claim forms should be signed and submitted (online or by mail) on or after the last day of the claim. The completed claim must be received by the RRB within 15 days of the end of the claim period, or within 15 days of the date the claim form was made available online or mailed to the claimant, whichever is later.

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Only one *application* needs to be filed during a benefit year, even if a claimant becomes unemployed more than once. However, in the case of multiple claim periods, a claimant must request a claim form from the RRB within 30 days of the first day for which he or she wants to resume claiming benefits. These claim forms may then be filed online or by mail.

10. How does a person apply for and claim sickness benefits?

An *Application for Sickness Benefits* (Form SI-1a) can be obtained from **RRB.gov**, a railroad labor organization, or a railroad employer. Applications for sickness benefits **must** be submitted to the agency by mail, or by fax to 713-405-2078. However, subsequent claims may be mailed, or completed online by employees who have established a **myRRB** account at RRB.gov.

An application including a doctor's *Statement of Sickness* (Form SI-1b) is required at the beginning of **each** period of continuing sickness for which benefits are claimed. Claimants should make a special effort to have the doctor's statement of sickness completed promptly since claims cannot be paid without it.

The RRB suggests that employees keep an application for sickness benefits on hand, and that family members know where the form is kept and how to use it. If an employee becomes unable to work because of sickness or injury, the employee should complete the application and have his or her doctor complete the attached statement of sickness. If a claimant receives sickness benefits for an injury or illness for which he or she is paid damages, it is important to be aware that the RRB is entitled to reimbursement of either the amount of the benefits paid for the injury or illness or the net amount of the settlement, after deducting the claimant's gross medical, hospital, and legal expenses, whichever is less.

If the employee is too sick to complete the application, someone else may complete it for him or her. In such cases, the individual signing for the employee should also complete a *Statement of Authority to Act for Employee* (Form SI-10), which accompanies the statement of sickness.

After completion, the forms should be faxed or mailed to the RRB within 10 days from when the employee became sick or injured. However, applications received after 10 days but within 30 days of the first day for which an employee wishes to claim benefits are generally considered timely filed if there is a good reason for the delay. (Employees cannot currently file their sickness *applications* online.) Upon receipt, the RRB will process the application and determine if the employee is eligible for sickness benefits.

After processing the application and statement of sickness, the RRB makes the *first* biweekly claim form available online (for employees with myRRB accounts) **and** mails a paper form to the employee as long as he or she is eligible for benefits and remains unable to work due to illness or injury. Those choosing to file the paper claim received by mail should return the completed form to RRB headquarters for processing. If the claimant returns the paper claim, future claims will be mailed to him or her. If the claimant files the claim online, all subsequent claim forms will *only* be made available online, and will no longer be mailed. Claimants must **not** file both online and paper claim forms for the same claim period(s). Employees who need to create a myRRB account should visit RRB.gov/myRRB and click on the button labeled **Sign in with login.gov**.

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Completed claim forms must be received at the RRB within 30 days of the last day of the claim period, or within 30 days of the date the claim form was made available online or mailed to the claimant, whichever is later. Benefits may be lost if an application or claim form is filed late. Claimants filing a late sickness application or claim form should include a signed statement explaining why they were unable to meet the required time frame.

Claimants are reminded that while claim forms for sickness benefits can be submitted online, applications for sickness benefits must be mailed or faxed to the RRB at 713-405-2078. Statements of sickness may be included with the completed sickness application, or submitted separately by mail or fax. Also, to prevent a delay in processing applications or claims, employees are advised against sending any sickness benefit forms to the RRB in Chicago via certified mail.

11. Is a claimant's employer notified each time a biweekly claim for unemployment or sickness benefits is filed?

Yes. The RUIA requires the RRB to notify the claimant's base-year employer each time a claim for benefits is filed. That employer has the right to submit information relevant to the claim before the RRB makes an initial determination on the claim. Benefits may not be paid at this time but the employee will receive a notice and have the right to appeal. In addition, if a claimant's base-year employer is not his or her current employer, the claimant's current employer is also notified. The RRB must also notify the claimant's base-year employer each time benefits are paid to a claimant. While the base-year employer may protest the decision to pay benefits, such a protest does not prevent the timely payment of benefits. However, a claimant may be required to repay benefits if the employer's protest is ultimately successful. The employer also has the right to appeal an unfavorable decision to the RRB's Bureau of Hearings and Appeals.

In addition, the RRB checks with other Federal agencies and all 50 States, as well as the District of Columbia and Puerto Rico, to detect fraudulent benefit claims, and with physicians to verify the accuracy of medical statements supporting sickness benefit claims.

12. How long does it take to receive payment?

Under the RRB's Customer Service Plan, if an employee files an application for unemployment or sickness benefits, the RRB will release a claim form or a denial letter within 10 days of receiving his or her application. If a claim for subsequent biweekly unemployment or sickness benefits is filed, the RRB will certify a payment or release a denial letter within 10 days of the date the RRB receives the claim form. Claimants who are entitled to benefits will generally be paid within one week of that decision.

However, some benefit claims may take longer to handle than others, especially if they are more complex, or if an RRB office requires information from other people or organizations to make a decision. If a claimant does not receive a decision notice or payment within the specified time period, he or she may expect an explanation for the delay and an estimate of the time required to make a decision.

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Claimants who think an RRB office made the wrong decision about their benefits have the right to ask for review and to appeal. They will be notified of these rights each time an unfavorable decision is made on their claims.

13. How are payments made?

Railroad unemployment and sickness benefits are paid by direct deposit to an employee's bank, savings and loan, credit union or other financial institution. First-time applicants for unemployment and sickness benefits will be asked to provide information needed for direct deposit enrollment.

14. How can claimants get more information about their railroad unemployment or sickness claims?

Claimants with **myRRB** accounts can use the View RUIA Account service to review their individual railroad unemployment and sickness insurance account statement. This statement displays the type and amount of the claimant's last five benefit payments, the claim period for which the payments were made, and the dates that the payments were approved. Individuals can also confirm the RRB's receipt of applications and claims.

In addition, claimants can call the agency toll-free at 1-877-772-5772 to access information about the status of unemployment and sickness claims or payments from an automated menu 24 hours a day, 7 days a week.

More information is available by visiting RRB.gov, clicking on **FAQ**, and then selecting **Unemployment and Sickness Benefits**, or by calling an RRB office toll-free at 1-877-772-5772. Persons can find the address of the RRB office serving their area by clicking the **Field Office Locator** tab at RRB.gov or by calling the agency's toll-free number. As stated earlier, RRB field offices currently offer **limited in-person service by appointment**. To schedule an appointment, call 1-877-772-5772. Individuals should bring a photo ID when visiting a field office, and, depending on guidance from the Centers for Disease Control and Prevention for the county in which the field office is located, may be required to wear an appropriate face mask. In such circumstances, if visitors do not have a mask, one will be provided for them.

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