

§ 831.2205 Computation of alternative form of annuity.

(a) To compute the beginning rate of annuity payable to a retiree who elects an alternative form of annuity, OPM will first compute the monthly rate of annuity otherwise payable under subchapter III of chapter 83 of title 5, United States Code, including all reductions provided under the subchapter other than those in § 8343a. That monthly rate is then reduced by an amount equal to the retiree's lump-sum credit divided by the present value factor for the retiree's attained age (in full years) at the time of retirement. The reduced monthly rate is then rounded to the next lowest dollar and becomes the rate of annuity payable.

(b) OPM will publish a notice in the FEDERAL REGISTER announcing any proposed adjustments in present value factors at least 30 days before the effective date of the adjustments.

§ 831.2206 Election to pay deposit or redeposit for civilian service.

(a) If an employee or Member who elects an alternative form of annuity owes a deposit or redeposit for civilian service, and elects to pay that deposit or redeposit before the date of final adjudication, OPM will compute the annuity as if the deposit or redeposit had been made and will deem that deposit or redeposit to be included in the lump-sum credit for the purpose of computing the reduction in annuity under § 831.2205.

(b) The amount of a deposit or redeposit deemed paid under paragraph (a) of this section will include any interest owed by the employee or Member under 5 U.S.C. 8334.

(c) For the purpose of paragraph (a) of this section, "redeposit" does not include a redeposit owed for service for which credit is allowed pursuant to § 831.303(c)(1).

[54 FR 10136, Mar. 10, 1989, as amended at 56 FR 43865, Sept. 5, 1991]

§ 831.2207 Partial deferred payment of the lump-sum credit if annuity commences after January 3, 1988, and before October 1, 1989.

(a) Except as provided in paragraph (c) of this section, if the annuity of an employee or Member commences after

January 3, 1988, and before October 1, 1989, the lump-sum credit payable under § 831.2204 is payable to the individual, or his or her survivors, according to the following schedule:

(1) Sixty percent of the lump-sum credit is payable at the time of retirement, and

(2) Forty percent is payable, with interest determined under section 8334(e)(3) of title 5, United States Code, one year after the time of retirement.

(b) If an employee or Member whose annuity commences after January 3, 1988, and before October 1, 1989, dies before the date of final adjudication, that individual is subject to § 831.2203 (f) or (g), but the lump-sum credit will be paid in accordance with the schedule in paragraph (a) of this section.

(c) An annuitant is exempt from the deferred payment schedule under paragraph (a) of this section if the individual—

(1) Separates involuntarily, other than for cause on charges of delinquency or misconduct, or

(2) Has, at the time of retirement, a life-threatening affliction or other critical medical condition.

(3)(i) For the purpose of this section, *life-threatening affliction or other critical medical condition* means a medical condition so severe as to reasonably limit an individual's probable life expectancy to less than 2 years.

(ii) The existence of one of the following medical conditions is *prima facie* evidence of a life threatening affliction or other critical medical condition:

(A) Metastatic and/or inoperable neoplasms.

(B) Aortic stenosis (severe).

(C) Class IV cardiac disease with congestive heart failure.

(D) Respiratory failure.

(E) Cor pulmonale with respiratory failure.

(F) Emphysema with respiratory failure.

(G) [Reserved]

(H) Severe cardiomyopathy—Class IV.

(I) Aplastic anemia.

(J) Uncontrolled hypertension with hypertensive encephalopathy.

(K) Cardiac aneurysm not amenable to surgical treatment.

(L) Agranulocytosis.

§ 831.2208

5 CFR Ch. I (1-1-01 Edition)

- (M) Severe hepatic failure.
- (N) Severe Hypoxic brain damage.
- (O) Severe portal hypertension with esophageal varices.
- (P) AIDS (Active—Not AIDS Related Complex or only seropositivity).
- (Q) Life threatening infections (encephalitis, meningitis, rabies, etc.).
- (R) Scleroderma with severe esophageal involvement.
- (S) Amyotrophic lateral sclerosis (rapidly progressive).
- (T) Hemiplegia with life threatening complications.
- (U) Quadriplegia with life threatening complications.
- (iii) Evidence of the existence of a life-threatening affliction or other critical medical condition must be certified by a physician and sent to OPM on or before the date the annuitant elects to receive an alternative form of annuity. For the purpose of this section, “physician” has the same meaning given that term in §339.102 of this chapter.
- (iv) If a medical condition other than those listed in paragraph (c)(3)(ii) of this section is claimed as a basis for exemption from the deferred payment schedule, OPM will review the physician’s certification to determine whether the cited condition is life-threatening or critical.
- (v) The cost of providing medical documentation under this paragraph rests with the employee or Member, unless OPM exercises its choice of physician.

[53 FR 11634, Apr. 8, 1988, as amended at 60 FR 54586, Oct. 25, 1995]

§ 831.2208 Partial deferred payment of the lump-sum credit if annuity commences after December 2, 1989, and before October 1, 1995.

(a) Except as provided in paragraph (c) of this section, if the annuity of a retiree commences after December 2, 1989, and before October 1, 1994, the lump-sum credit payable under §831.2204 is payable to the individual, or his or her survivors, according to the following schedule:

- (1) Fifty percent of the lump-sum credit is payable at the time of retirement, and
- (2) Fifty percent is payable, with interest determined under section 8334(e)(3) of title 5, United States Code,

1 year after the time of retirement, except if the payment date of the amount specified in paragraph (a)(1) of this section was after December 4, 1989, payment with interest will be made in the calendar year following the calendar year in which the payment specified in paragraph (a)(1) of this section was made.

(b) If a retiree whose annuity commences after December 2, 1989, and before October 1, 1994, and who is otherwise entitled to a computation under this subpart, dies before the date of final adjudication, that individual is subject to §831.2203 (f) or (g), but the lump-sum credit will be paid in accordance with the schedule in paragraph (a) of this section.

(c)(1) A retiree is exempt from the deferred payment schedule under paragraph (a) of this section if the individual meets the conditions, and fulfills the requirements, described in §831.2207(c).

(2)(i) A retiree who is exempt from the deferred payment schedule may waive that exemption by notifying OPM, in writing, on or before the date he or she elects to receive the alternative form of annuity.

(ii) Paragraph (c)(2)(i) of this section does not apply to an individual whose annuity commences after December 1, 1990, if that individual’s eligibility to elect an alternative form of annuity is pursuant to §831.2203(h)(1)(i)(A).

(iii) A waiver under paragraph (c)(2)(i) of this section cannot be revoked.

[56 FR 6551, Feb. 19, 1991, as amended at 56 FR 43865, Sept. 5, 1991; 60 FR 54587, Oct. 25, 1995]

§ 831.2209 Redetermined annuity after reemployment.

(a) For purposes of this section, “lump-sum credit” does not include—

(1) The amount by which the lump-sum credit attributable to service performed before the annuitant’s first retirement was reduced by annuity payments that were not reimbursed by the employing agency under section 8344(a) of title 5, United States Code, or

(2) Any part of the lump-sum credit attributable to service performed before the annuitant’s first retirement