

§ 831.2208

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- (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

that has already been paid to the annuitant pursuant to an election or an alternative form of annuity.

(b) An annuitant who meets the requirements for a redetermined annuity under subpart H, and who meets all requirements of § 831.2203, may elect an alternative form of annuity.

(c) To compute the beginning rate of the redetermined annuity payable to an annuitant who elects an alternative form of annuity, OPM will first compute the monthly rate payable under subchapter III of chapter 83 of title 5, United States Code, including all reductions provided under the subchapter other than those in section 8343a. That monthly rate is then reduced by the sum of—

(1)(i) Any reduction that was computed under § 831.2205 at the time of the annuitant's prior retirement, increased by—

(ii) All cost-of-living adjustments under section 8340 of title 5, United States Code that applied to the annuitant before the commencing date of the redetermined annuity, and

(2) An amount equal to the annuitant's lump-sum credit, divided by the present value factor for the annuitant's attained age on the date the redetermined annuity commences.

(d) The beginning rate of a redetermined annuity payable to an annuitant who does not elect, or is not eligible to elect, an alternative form of annuity will be reduced in accordance with paragraph (c)(1) of this section.

[54 FR 10136, Mar. 10, 1989. Redesignated at 55 FR 4597, Feb. 9, 1990]

PART 835—DEBT COLLECTION

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AUTHORITY 5 U.S.C. 8347(a) and 8461(g). Subpart F also issued under 31 U.S.C. 3720A.

SOURCE: 57 FR 61771, Dec. 29, 1992, unless otherwise noted.

Subparts A–E [Reserved]

Subpart F—Collection of Debts by Federal Tax Refund Offset

§ 835.601 Purpose.

This subpart establishes procedures for OPM to refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to OPM. It specifies the agency procedures and the rights of the debtor applicable to claims referred under the Federal Tax Refund Offset Program for the collection of debts owed to OPM.

§ 835.602 Past-due legally enforceable debt.

A past-due legally enforceable debt for referral to the IRS is a debt that—

(a) Resulted from—

(1) Erroneous payments made under the Civil Service Retirement or the Federal Employees' Retirement Systems; or

(2) Unpaid health or life insurance premiums due under the Federal Employees' Health Benefits or Federal Employees' Group Life Insurance Programs; or

(3) Any other statute administered by OPM;

(b) Is an obligation of a debtor who is a natural person;

(c) Except in the case of a judgment debt, has been delinquent at least 3 months but not more than 10 years at the time the offset is made;

(d) Is at least \$25.00;

(e) With respect to which the individual's rights described in 5 CFR 831.1301 through 831.1309 have been exhausted;

(f) With respect to which either:

(1) OPM's records do not contain evidence that the person owing the debt (or his or her spouse) has filed for bankruptcy under title 11 of the United States Code; or

(2) OPM can clearly establish at the time of the referral that the automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect with respect to the person owing the debt or his or her