



**FROM THE DESK OF**

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**U.S. RAILROAD RETIREMENT BOARD**

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

Railroad Retirement Act spouse and widow(er)s' annuities (including divorced spouse, surviving divorced spouse and remarried widow(er)s' annuities) are subject to reduction when social security benefits or dual railroad retirement annuities are also payable. Such railroad retirement benefits may also be reduced when a spouse or widow(er) is entitled to a public service pension unless certain exemption requirements are met.

Since the payment of railroad retirement spouse or widow(er)s' annuities can be affected by entitlement to certain other government benefits, 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 payments are adjusted by the RRB for spouse and widow(er) annuitants entitled to public service pensions.

#### **1. For social security or railroad retirement purposes, what is considered a public service pension?**

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

For spouses and widow(er)s subject to the public service pension reduction, the tier I reduction is, under current law, equal to 2/3 of the amount of the public 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 reduction in spouse and widow(er)s' annuities and how does it affect such payments?**

The public service pension reduction in social security and railroad retirement spouse and widow(er)s' benefits was brought about by 1977 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 an 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.

Since a social security spouse or widow(er)'s benefit is reduced if the spouse or widow(er) is also entitled to a social security benefit based on her or his own earnings, it was considered equitable that a social security spouse or widow(er)'s benefit also be reduced for a public service pension based on the spouse's or widow(er)'s own non-social security earnings.

The exemption requirements were subsequently tightened by legislation enacted in March 2004. That legislation required that State and local government workers be covered by social security throughout their last 60 months of employment with the pension-paying government entity in order to be exempt from a reduction. This 60-month requirement is being phased in over a 5-year period ending March 1, 2009, and there are some exceptions. Under prior law, a reduction generally did not apply to social security or railroad retirement spouse or widow(er)s' benefits if the government job that the public pension is based on was covered under the Social Security Act on the last day of public employment.

**4. How does the public pension reduction law provide a transition or phase-in period for those who will not be retiring for a few years?**

The law provides a transition for workers whose last day of government employment occurs within 5 years after March 2, 2004. Any State or local government worker whose last day of government employment occurs after June 30, 2004, and before March 2, 2009, could have the requirement for 60 consecutive months of social security-covered government employment reduced. For these workers, the requirement for 60 consecutive months of social security-covered employment would be shortened by the total number of months that the worker had in social security-covered government service under the same retirement system before March 2, 2004, but not to less than 1 month. If the 60-month period is shortened, the remaining months of social security-covered service needed to fulfill the requirement must be performed after March 2, 2004, and must continue through the worker's last day of public service employment.

**5. Are there any other provisions that would exempt railroad retirement spouse or widow(er) annuitants from the public pension offsets?**

The public pension reduction does not apply to a spouse or widow(er) who filed for and became entitled to her or his railroad retirement annuity before December 1977, or to a spouse or widow(er) whose public pension is **not** based on her or his own earnings.

Annuities payable for any months after November 1977 to spouses and widow(er)s may also be exempt from the public pension reduction at the time of filing if **both** of the following two requirements are met.

The first requirement is that they began to receive or were **eligible** to receive their Federal, State or local government pension before December 1982. This means they must have met the age and service requirements for their pensions before December 1982, even though they did not apply for their pensions before then.

The second is that they meet all requirements for spouse and widow(er)s' benefits in effect under social security law in January 1977. At that time, for example, a divorced woman's marriage must have lasted at least 20 years, rather than 10 years as required today. Also, a husband or widower must have received at least one-half support from his wife.

Even if spouses and widow(er)s do not meet these criteria, they still may be exempt from the reduction beginning with railroad retirement benefits payable December 1982 if they received or were eligible to receive their Federal, State, or local government pensions before July 1, 1983, **and** they were receiving at least one-half support from their spouses at the time their spouses retired or died. This provision applies to men and women.

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

Individuals should contact the nearest field office of the RRB for information as to how their public service pensions could affect their railroad retirement benefits.

They can find the address and phone number of the RRB office serving their area by calling the automated toll-free RRB Help Line at 1-800-808-0772 or by visiting [www.rrb.gov](http://www.rrb.gov). RRB field offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays.

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