



FROM THE DESK OF

**V. M. SPEAKMAN, JR.
LABOR MEMBER**



U.S. RAILROAD RETIREMENT BOARD

V. M. Speakman, Jr.

For Publication
November 2007

Reporting Events That Can Affect Railroad Retirement Benefits

Rights to benefits under the Railroad Retirement Act also carry responsibilities for reporting events that may affect the payment of these benefits to the employee or to members of the employee's family. If these events are not reported, benefit overpayments can occur that have to be repaid, sometimes with interest and penalties.

Events that can affect the payment of a railroad retirement annuity and result in overpayments if not promptly reported include:

- social security or certain other benefit awards, and changes in the amount of such benefit payments;
- post-retirement work and earnings;
- the death of an annuitant;
- changes in marital status;
- a child leaving the care of a spouse or widow(er);
- a student ceasing full-time attendance.

The following questions and answers describe how these events affect railroad retirement benefits and what should be done to prevent overpayments.

1. How can the award of social security benefits result in a railroad retirement annuity overpayment?

The tier I portion of a railroad retirement annuity is based on both the railroad retirement and social security credits acquired by an employee and reflects what social security would pay if railroad work were covered by social security. Tier I benefits are, therefore, reduced by the amount of any actual social security benefit paid on the basis of nonrailroad employment, in order to prevent a duplication of benefits based on the same earnings.

The tier I dual benefit reduction also applies to the annuity of an employee qualified for social security benefits on the earnings record of another person, such as a spouse. And, the tier I portion of a spouse or survivor annuity is reduced for **any** social security entitlement, even if the social security benefit is based on the spouse's or survivor's own earnings. These reductions follow principles of social security law which, in effect, limit payment to the higher of any two or more benefits payable to an individual at one time.

(More)

Since 1975, if a railroad retirement annuitant is also awarded a social security benefit, the Social Security Administration determines the amount due, but a combined monthly dual benefit payment should, in most cases, be issued by the Railroad Retirement Board (RRB) after the railroad retirement annuity has been reduced for the social security benefit.

A person should notify the RRB when he or she files for social security benefits. If the Social Security Administration begins paying benefits directly to a railroad retirement annuitant without the RRB's knowledge, an overpayment will occur. This frequently happens when a railroad employee's spouse or widow(er) is awarded social security benefits not based on the employee's earnings.

Also, annuitants who are receiving their social security benefits directly from the Social Security Administration must notify the RRB if their social security benefits are subsequently increased for any reason **other** than annual cost-of-living increases, such as a recomputation to reflect post-retirement earnings. As such recomputations are usually retroactive, they can result in substantial overpayments.

While social security benefit information is provided to the RRB as a result of routine information exchanges between the RRB and the Social Security Administration, it will generally not be provided in time to avoid such a benefit overpayment.

2. What other types of benefit payments, besides social security benefits, require dual benefit reductions in a railroad retirement annuity?

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 tier I 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 also applies to certain other payments not covered by social security, such as payments from a non-profit organization or from a foreign government or a foreign employer. However, 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.

The tier I portion of a **spouse** or **widow(er)**'s annuity may also be reduced for receipt of any Federal, State or local pension 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. (This 60-month requirement is being phased in over a 5-year period ending March 1, 2009, and there are some exceptions.) In addition, most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction.

If an employee is receiving a **disability** annuity, tier I benefits for the employee and spouse may, under certain circumstances, be reduced for receipt of workers' compensation or public disability benefits.

If annuitants become entitled to any of the above payments, they should promptly notify the RRB. If there is any question as to whether a payment requires a reduction in an annuity, an RRB field office should be contacted.

3. Can earnings cause railroad retirement overpayments?

Unreported post-retirement work and earnings in nonrailroad employment are a major cause of overpayments in railroad retirement annuities. Like social security benefits, railroad retirement tier I benefits and vested dual benefits paid to employees and spouses, plus tier I, tier II, and vested dual benefits paid to survivors, are subject to earnings deductions if post-retirement earnings exceed certain exempt amounts, which increase annually.

These earnings deductions do not apply to those who have attained full social security retirement age. Full retirement age for employees and spouses ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later. Full retirement age for survivor annuitants ranges from age 65 for those born before 1940 to age 67 for those born in 1962 or later.

For those under full retirement age throughout 2007, the exempt earnings amount is \$12,960. For those under full retirement age throughout 2008, the exempt earnings amount will be \$13,560. For beneficiaries attaining full retirement age in 2007, the exempt earnings amount is \$34,440 for the months before the month full retirement age is attained. For beneficiaries attaining full retirement age in 2008, the exempt earnings amount will be \$36,120 for the months before the month full retirement age is attained.

For those under full retirement age throughout a calendar year, the earnings deduction is \$1 in benefits for every \$2 of earnings over the exempt amount. For those attaining full retirement age during a calendar year, the deduction is \$1 for every \$3 of earnings over the exempt amount in the months before the month full retirement age is attained.

Annuitants who work after retirement and expect that their earnings for a year will be more than the annual exempt amount must promptly notify the nearest RRB field office and furnish an estimate of their expected earnings. This way their annuities can be adjusted to take the excess earnings into consideration and prevent an overpayment. Annuitants whose original estimate changes significantly during the year, either upwards or downwards, should also notify the RRB.

Retired employees and spouses, regardless of age, who work for their last pre-retirement nonrailroad employer are also subject to an earnings deduction in their tier II and supplemental benefits of \$1 for every \$2 in earnings up to a maximum reduction of 50 percent. This earnings restriction does not change from year to year and does not allow for an exempt amount. Retired employees and spouses should therefore promptly notify the RRB if they return to employment for their last pre-retirement nonrailroad employer, or if the amount of their earnings from such employment changes.

A spouse benefit is subject to reductions not only for the spouse's earnings, but also for the earnings of the employee, regardless of whether the earnings are from service for the last pre-retirement nonrailroad employer or any other post-retirement employment. (Effective August 17, 2007, an annuity paid to a divorced spouse may continue despite the employee's work activity.)

4. How do post-retirement earnings affect disability annuities?

Special restrictions limiting earnings to \$700 per month in 2007 and \$730 per month in 2008, exclusive of disability-related work expenses, apply to disabled railroad retirement employee annuitants.

In addition, any work performed by a disabled annuitant may be considered an indication of an individual's recovery from disability, regardless of the amount of earnings. Therefore, any earnings by a disability annuitant must be reported promptly to avoid potential overpayments.

These disability work restrictions apply until the disabled employee annuitant attains full retirement age. This transition is effective no earlier than full retirement age even if the annuitant had 30 years of service. Also, a disabled employee annuitant who works for his or her last pre-retirement nonrailroad employer would be subject to the additional earnings deduction that applies in these cases.

5. What effect does railroad work have on an annuity?

No railroad retirement annuity is payable for any month in which an employee, spouse or survivor annuitant performs compensated service for a railroad or railroad union. This includes local lodge compensation totaling \$25 or more for any calendar month, and work by a local lodge or division secretary collecting insurance premiums, regardless of the amount of salary.

6. What should be done when a railroad retirement annuitant dies?

The RRB should be notified immediately upon the death of any retirement or survivor annuitant. Payment of a railroad retirement annuity stops upon an annuitant's death and the annuity is not payable for any day in the month of death. This is true regardless of how late in the month death occurs and there is no provision for prorating such a payment. Any payments received after the annuitant's death must be returned. The sooner the RRB is notified, the less chance there is of payments continuing and an overpayment accruing. The RRB would also determine whether any survivor benefits due are payable by the RRB or the Social Security Administration.

7. What are some other events that can affect payments to auxiliary beneficiaries, such as spouses and widow(er)s?

A spouse or divorced spouse must immediately notify the RRB if the railroad employee upon whose service the annuity is based dies. A spouse must notify the RRB if her or his marriage ends in divorce or annulment and a widow(er) or divorced spouse must notify the RRB if she or he remarries.

Also, benefits paid to spouses, widow(er)s and surviving divorced spouses that are based on the beneficiary caring for an unmarried child of the employee are normally terminated by the RRB when the child attains age 18 (16 for a surviving divorced spouse) or if a disabled child over age 18 (16 for a

surviving divorced spouse) recovers from the disability. Therefore, the RRB must be notified if the child leaves the beneficiary's care or marries.

Benefits are also payable to an unmarried child age 18 in full-time attendance at an elementary or secondary school or in approved home schooling until the student attains age 19 or the end of the school term in progress when the student attains age 19. (In most cases where a student attains age 19 during the school term, benefits are limited to the two months following the month age 19 is attained.) These benefits will be terminated earlier if the student marries, graduates, or ceases full-time attendance. Therefore, the RRB must be notified promptly to prevent an overpayment.

8. Can an annuitant contest a decision that he or she has been overpaid?

Annuitants who believe a decision regarding a benefit overpayment is incorrect may ask for reconsideration and/or waiver of the overpayment. If not satisfied with the initial review, the annuitant may appeal to the RRB's Bureau of Hearings and Appeals. Further appeals can be carried to the three-member Board itself, and beyond the Board to Federal courts.

Annuitants are told about these appeal rights any time a decision is made regarding a benefit overpayment.

9. How can an annuitant find out if an event might affect his or her railroad retirement benefit payments?

Annuitants should contact the nearest field office of the RRB for information. In any situation, the best rule is "If in doubt, report."

Annuitants 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. They can also get this information from the agency's Web site at www.rrb.gov. Most RRB offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays.

###