

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

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## **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"> <li>Receives payments for a particular result accomplished rather than regular remuneration on a time basis or</li> <li>Has agreements or arrangements for the performance of specific services of limited duration for a particular project.</li> </ul>	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*.