

PROVISIONS OF THE RAILROAD RETIREMENT ACT

CREDITABLE SERVICE AND EARNINGS

Service performed for a covered employer or as an employee representative is creditable toward all types of benefits under the Railroad Retirement Act. Covered employers include interstate railroads and their affiliates engaged in railroad-connected operations, as well as employer associations and national railroad labor organizations and their subordinate units. In some cases, military service may be counted as railroad service.

Service to an employer is creditable if it is compensated and the employee is subject to the continuing supervision of the employer. Benefits are based on earnings credits and months of service. Earnings are creditable up to certain annual maximums on the amount of compensation subject to railroad retirement taxes. Credit for a month of railroad service is given for every month in which an employee had some compensated service for an employer covered by the Railroad Retirement Act, even if only one day's service is performed in the month. (However, local lodge compensation earned after 1974 is disregarded for any calendar month in which it is less than \$25.) Additional months of service may be deemed under certain conditions. The basic requirement for railroad retirement annuities is 120 months (10 years) of creditable railroad service or 60 months (5 years) of creditable railroad service if such service was performed after 1995. Service months need not be consecutive.

Additional service months may be deemed in some cases where an employee does not actually work in every month of the year. For additional service months to be deemed, the employee's compensation for the year, up to the tier II maximum, must exceed an amount equal to 1/12 of the tier II maximum multiplied by the number of service months actually worked.

Except for on-the-job injuries, the first six months of sickness benefits payable by the Board are subject to tier I taxes and credited as compensation for tier I benefits, but are not credited as service months.

Military service may be credited towards retirement benefits under certain conditions. To be creditable as compensation under the Railroad Retirement Act, service in the U.S. Armed Forces must be preceded by railroad service in the same or preceding calendar year. With the exceptions noted, the employee must also have entered active military service when the United States was at war or in a state of national emergency or have served in the Armed Forces involuntarily.

The war and national emergency periods that affect current retirements are:

- September 8, 1939, to June 14, 1948.
- December 16, 1950, to September 14, 1978.
- August 2, 1990, to date as yet undetermined.

If military service began during a war or national emergency period, any active duty service the employee was required to continue in beyond the end of the war or national emergency is creditable, except that voluntary service extending beyond September 14, 1978, is not creditable and an employee who voluntarily entered military service from January 1, 1947, through June 14, 1948, can only receive credit for such military service through June 14, 1948. However, such railroad workers, as well as railroad workers who voluntarily served in the Armed Forces between June 15, 1948, and December 15, 1950, when there was not a national state of emergency in force, can be given railroad retirement credit for their military service if they performed rail-

road service in the year they entered or the year before they entered military service and if they returned to rail service in the year their military service ended or in the following year, and had no intervening nonrailroad employment.

In some cases where military service is creditable as compensation under the Railroad Retirement Act, it may be more advantageous for the military service to be treated as social security credit instead. If a retiring employee has minor children and needs additional social security credit to qualify for social security benefits, or if a retiree needs additional social security credit to qualify for vested dual benefits, it may be advantageous to claim military service as social security credit. In most other cases, it is generally more advantageous if military service is credited as compensation under the Railroad Retirement Act. The Board will determine the most advantageous treatment of military service for retiring employees.

Service and Earnings Records

The Railroad Retirement Board maintains a record of all covered railroad service and creditable earnings after 1936. The information is recorded under the employee's social security account number used by the employer to report service and compensation to the Board.

Each year employees in the industry receive a Certificate of Service Months and Compensation (Form BA-6) from the Board. This statement is important because it provides both a current and cumulative record of an employee's railroad service and compensation. It includes separation allowances and severance payments as well as miscellaneous compensation, such as taxable sickness payments. Beginning with the form released in 2002, it reflects military service, which can also be creditable, if the service has previously been reported to the Board. The BA-6 form should be carefully reviewed to make sure that it is correct.

If an employee disagrees with the information shown on the BA-6 form, he or she should write the Board as early as possible. The law limits the period during which corrections can be made. All letters concerning BA-6 forms should show the employee's social security number and should be addressed to:

**Protest Unit - ESTC
U.S. Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092**

EMPLOYEE AND SPOUSE ANNUITIES

Age and Service, Disability and Supplemental Annuities

An AGE AND SERVICE ANNUITY can be paid to:

Employees with 30 or more years of creditable service. They are eligible for regular annuities based on age and service the first full month they are age 60. Early retirement reductions are applied if the employee first became eligible for a 60/30 annuity July 1, 1984, or later and retired at ages 60 or 61 *before 2002*.

Employees with 10 to 29 years of creditable service, or 5-9 years, if at least 5 years were after 1995. They are eligible for regular annuities based on age and service the first full month they are age 62. Early retirement annuity reductions are applied to annuities awarded before the employee's full retirement age which ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later, the same as under social security. Reduced annuities are still payable at age 62 but the maximum reduction will be 30 percent rather than 20 percent by the year 2022. The tier II portion of an annuity (as defined on page 29) is not reduced beyond 20 percent if the employee had any creditable railroad service before August 12, 1983. (See pages 54-57 for a detailed explanation of age reductions.)

An annuity based on age cannot be paid until the employee stops railroad employment, files an application and gives up any rights to return to work for a railroad employer.

A *DISABILITY ANNUITY* can be paid for:

Total disability, at any age, if an employee is permanently disabled for *all regular work* and has at least 10 years (120 months) of creditable railroad service. Employees with 5-9 years of creditable railroad service, if at least 5 years were after 1995, may qualify for tier I only (as defined on page 29) before retirement age on the basis of total disability if they also meet certain social security earnings requirements. An age reduced tier II amount would be payable at age 62.

Occupational disability, at age 60, if an employee has at least 10 years of railroad service or at any age if the employee has at least 20 years (240 months) of service, when the employee is permanently disabled for his or her *regular railroad occupation*. A “current connection” with the railroad industry is also required for an annuity based on *occupational*, rather than *total*, disability.

A five-month waiting period beginning with the month after the month of the onset of disability is required before any disability annuity payments can begin.

While an annuity based on disability is not paid until an employee has stopped working for a railroad, employment rights need not be relinquished until the employee attains full retirement age. However, in order for a supplemental annuity to be paid by the Board, or for an eligible spouse to begin receiving annuity payments, a disabled annuitant under full retirement age must relinquish employment rights.

A *SUPPLEMENTAL ANNUITY* can be paid at:

Age 60, if the employee has at least 30 years of creditable railroad service.

Age 65, if the employee has 25-29 years of railroad service.

In addition to the service requirements, a “current connection” with the railroad industry is required for all supplemental annuities. Eligibility is further limited to employees who had some rail service before October 1981.

Current Connection Requirement

An employee who worked for a railroad in at least 12 months in the 30 months immediately preceding the month his or her railroad retirement annuity begins will meet the current connection requirement for a supplemental annuity, occupational disability annuity or the survivor benefits described later in this handbook. (If the employee died before retirement, railroad service in at least 12 months in the 30 months before death will meet the current connection requirement for the purpose of paying survivor benefits.)

If an employee does not qualify on this basis, but has 12 months’ service in an earlier 30-month period, he or she may still meet the current connection requirement. This alternative generally applies if the employee did not have any regular employment outside the railroad industry after the end of the last 30-month period which included 12 months of railroad service and before the month the annuity begins or the date of death. Full or part-time work for a nonrailroad employer in the interval between the end of the last 30-month period including 12 months of railroad service and the beginning date of an employee’s annuity, or the date of death if earlier, can break a current connection.

Self-employment in an unincorporated business will not break a current connection; however, self-employment can break a current connection if the business is incorporated.

Working for certain U.S. Government agencies - Department of Transportation, National Transportation Safety Board, Surface Transportation Board (the former Interstate Commerce Commission), National Mediation Board, Railroad Retirement Board - will *not* break a current connection. Neither State employment with the Alaska Railroad, so long as that railroad remains an

entity of the State of Alaska, nor non-creditable Canadian railroad service will break a current connection.

A current connection can also be maintained, for purposes of supplemental and survivor annuities, if the employee completed 25 years of railroad service, was involuntarily terminated without fault from the railroad industry, and did not thereafter decline an offer of employment in the same class or craft in the railroad industry regardless of the distance to the new position. A termination of railroad service is considered voluntary unless there was no choice available to the individual to remain in service. Generally, where an employee has no option to remain in the service of his or her employer, the termination of the employment is considered involuntary, regardless of whether the employee does or does not receive a separation allowance. However, each case is decided by the Board on an individual basis. This exception to the normal current connection requirements became effective October 1, 1981, but only for employees still living on that date who left the rail industry on or after October 1, 1975, or who were on leave of absence, on furlough, or absent due to injury on October 1, 1975.

Once a current connection is established at the time the railroad retirement annuity begins, an employee never loses it, no matter what kind of work is performed thereafter.

Spouse Annuities

The age requirements for a spouse annuity depend on the employee's age and date of retirement and the employee's years of railroad service.

If a retired employee with 30 years of service is age 60, the employee's spouse is also eligible for an annuity the first full month the spouse is age 60. Certain early retirement reductions are applied if the employee first became eligible for a 60/30 annuity July 1, 1984, or later and retired at ages 60 or 61 before 2002. If the employee was awarded a disability annuity, has attained age 60 and has 30 years of service, the spouse can receive an unreduced annuity the first full month she or he is age 60, regardless of

whether the employee annuity began before or after 2002 as long as the spouse's annuity beginning date is after 2001.

If a retired employee with less than 30 years of service is age 62, the employee's spouse is also eligible for an annuity the first full month the spouse is age 62. Early retirement reductions are applied to the spouse annuity if the spouse retires prior to full retirement age. Full retirement age for a spouse is gradually rising to age 67, just as for an employee, depending on the year of birth. Reduced benefits are still payable at age 62, but the maximum reduction will be 35 percent rather than 25 percent by the year 2022. The tier II portion of a spouse annuity is not reduced beyond 25 percent if the employee had any creditable railroad service before August 12, 1983.

A spouse of an employee receiving an age and service annuity (or a spouse of a disability annuitant who is otherwise eligible for an age and service annuity) is eligible for a spouse annuity at any age if caring for the employee's unmarried child, and the child is under age 18 or the child became disabled before age 22.

The employee must have been married to the spouse for at least one year, unless the spouse is the natural parent of their child, the spouse was eligible or potentially eligible for a railroad retirement widow(er)'s, parent's or disabled child's annuity in the month before marrying the employee or the spouse was previously married to the employee and received a spouse annuity. However, entitlement to a surviving divorced spouse, surviving divorced young mother (father), or remarried widow(er) annuity does not waive the one-year marriage requirement.

An annuity may also be payable to the *divorced wife or husband* of a retired employee if their marriage lasted for at least 10 years, both have attained age 62 for a full month and the divorced spouse is not currently married. The amount of a divorced spouse's annuity is, in effect, equal to what social security would pay in the same situation and therefore less than the amount of the spouse annuity otherwise payable.

Employee and Spouse Annuity Estimates

Because of the complexities of the railroad retirement laws and the need for lifetime earnings records, it is generally not practical for an employee to attempt to estimate his or her own regular annuity or the annuity of the spouse. Employees who want estimates should contact the nearest field office of the U.S. Railroad Retirement Board for approximate figures. It is not possible to provide a precise estimate of an annuity rate if the employee will not be eligible until a future year.

The tables on the next page illustrate average amounts awarded to employees and spouses in fiscal year 2001. Annuities awarded after 2001 to 30-year employees ages 60 or 61 will not be reduced for age.

Two-tier Annuities and Dual Benefits

Regular railroad retirement annuities are calculated under a two-tier formula. The annuity formula components for employees and spouses are described later in this chapter.

The first tier is based on railroad retirement credits and any social security credits an employee has acquired. The amount of the first tier is calculated using social security formulas, but with railroad retirement age and service requirements.

The second tier is based on railroad retirement credits only, and may be compared to the retirement benefits paid over and above social security benefits to workers in other industries.

An additional amount may also be payable as part of the regular annuity if an employee had at least 120 months of railroad service and acquired sufficient quarters of coverage for an insured status under the Social Security Act before 1975, and also met certain vesting requirements.

Employees with Railroad Retirement and Social Security Benefits

Since 1975, if a retired or disabled railroad retirement annui-

Table 1.--Fiscal Year 2001 Annuity Awards to 30-year Employees Retiring Before Age 65

	<u>Average award</u>	<u>Average years of service</u>
Retirement at ages 60-61:		
Employee	\$2,076	35.0
Employee and spouse	\$2,891	35.3
Retirement at ages 62-64:		
Employee	\$2,486	36.4
Employee and spouse	\$3,511	36.5

NOTE.--For employees with at least 25 years of service and a current connection, a supplemental annuity may be payable. The supplemental annuity amount, for awards after 1974, is \$23 plus \$4 for each year of service over 25 years, up to a maximum of \$43 for employees with 30 or more years of service. Figures in the tables on this page include supplemental annuity amounts.

Table 2.--Fiscal Year 2001 Annuity Awards Based on Service Averaging Less than 30 Years

	<u>Average award</u>	<u>Average years of service</u>
Employee age 65 or over	\$1,415	21.9
Employee age 65 or over and spouse	\$2,110	24.3
Employee ages 62-64 with less than 30 years of service	\$1,130	17.9
Employee ages 62-64 with less than 30 years of service and spouse	\$1,616	18.7
Employee retiring because of disability	\$1,973	25.0

tant is also awarded social security benefits, the Social Security Administration determines the amount due, but a combined monthly benefit payment is issued by the Railroad Retirement Board.

Since the tier I portion of an employee annuity is based on combined railroad retirement and social security credits, it is reduced by the amount of any actual social security benefit paid on the basis of the employee's nonrailroad employment in order to prevent a duplication of benefits based on those earnings. The tier I amount is also reduced in the event a social security benefit is payable to the employee on the basis of another person's earnings. This reduction follows 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. An annuitant is required to advise the Railroad Retirement Board if any benefits are received directly from the Social Security Administration or if those benefits increase.

If an employee *qualified for dual benefits before 1975 and met certain vesting requirements*, he or she can receive an additional annuity amount, which offsets, in part, the dual benefit reduction. This additional amount, which reflects the dual benefits payable prior to 1975, is called the vested dual benefit payment. The vested dual benefit cannot be paid prior to the date the employee could begin to receive a social security benefit if he or she were to file for such a benefit.

Employees who do not qualify for a vested dual benefit may be eligible for a refund of any excess social security taxes they paid (see Dual Tax Payments on pages 50-51).

Employees with Public, Non-profit or Foreign Pensions

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 the tier I amount 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 may also apply to certain other payments not covered by railroad retirement

or social security, such as from a non-profit organization or from a foreign government or a foreign employer, but 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.

Workers' Compensation

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

If an annuitant becomes entitled to any pensions or benefits as described above, the Board must be notified immediately.

Spouses with Dual Benefits

Social Security Benefits

The tier I portion of a spouse annuity is reduced for any social security entitlement, regardless of whether the social security benefit is based on the spouse's own earnings, the employee's earnings or the earnings of another person. This reduction follows 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.

Public Pensions

The tier I portion of a spouse annuity may also be reduced for receipt of any Federal, State or local government pension separately payable to the spouse based on the spouse's 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 on the last day of public employment.* Most military service pensions and payments from the Department of Veterans Affairs will

* A special rule applies to Federal employees who switch from the Civil Service Retirement System to the Federal Employees Retirement System.

not cause a reduction. For spouses subject to the public pension reduction, the tier I reduction is equal to 2/3 of the amount of the public pension.

Employee Annuity

If both the husband and wife are qualified railroad employees and either had some railroad service before 1975, both can receive separate railroad retirement employee and spouse annuities, without a full dual benefit reduction.

If both the husband and wife started railroad employment after 1974, only the railroad retirement employee annuity or the spouse annuity, whichever he or she chooses, is payable.

Minimum Guaranty for Employee and Spouse Annuities

Under a special minimum guaranty provision, railroad families will not receive less in monthly benefits than they would have if railroad earnings were covered by social security rather than railroad retirement laws. This guaranty is intended to cover situations in which one or more members of a family would otherwise be eligible for a type of social security benefit which is not provided under the Railroad Retirement Act.

For example, social security provides children's benefits when an employee is totally disabled, retired, or deceased. The Railroad Retirement Act only provides children's benefits if the employee is deceased. Therefore, if a retired rail employee has children who would otherwise be eligible for a benefit under social security, the employee's annuity would be increased to reflect what social security would pay the family, unless the annuity is already more than that amount.

Cost-of-living Increases in Employee and Spouse Retirement Benefits

After retirement, the *tier I* portions of both employees' and spouses' annuities are generally increased for higher living costs at the same time, and by the same percentage, as social security benefits. These increases, effective December 1 and included in the

January payment, are triggered under both programs when the Consumer Price Index rises during the 12 months ending the previous September 30. Generally, if the Index increases by five percent, for example, the tier I portion increases by five percent.

If an annuitant is receiving both railroad retirement and social security benefits, the increased tier I portion is reduced by the increased social security benefit.

The *tier II* portions of retired employee and spouse annuities are normally increased annually by 32.5 percent of the increase in the Consumer Price Index.

Tier II cost-of-living increases are generally payable at the same time as tier I cost-of-living increases. Vested dual benefit payments and supplemental annuities are not increased by these cost-of-living adjustments.

Working After Retirement

Neither a regular annuity, a supplemental annuity nor a spouse annuity is payable for any month in which a retired employee works for an employer covered under the Railroad Retirement Act, including labor organizations. However, compensation of less than \$25 a month by a local lodge employee will not prevent payment of the annuity for that month. A spouse annuity is also not payable for any month in which the spouse works for a railroad employer.

Retired employees and spouses who work for their last pre-retirement nonrailroad employer are subject to an earnings deduction. Such employment will reduce tier II benefits and supplemental annuity payments, which are not otherwise subject to earnings deductions, by \$1 for each \$2 of earnings received, subject to a maximum reduction of 50 percent.

Retired employees and spouses who have not yet attained full social security retirement age, which ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later, may also be subject to additional earnings deductions for any earnings out-

side the rail industry that exceed certain exempt amounts. The tier I and vested dual benefits of these employee and spouse annuities are subject to deductions if earnings exceed the exempt amounts applicable to social security beneficiaries. Prior to the calendar year in which full social security retirement age is attained, the deduction is \$1 in benefits for every \$2 of annual earnings exceeding an exempt amount (\$11,280 in 2002).

If the employee or spouse has a tier I reduction for social security benefits, the tier I benefit is not reduced for excess earnings.

In the first year in which an employee subject to these earnings deductions is both entitled to an annuity and has a *non-work* month, a full annuity can be paid for those months in which the employee had low earnings or did not have substantial self-employment, no matter what total earnings for the year were. A non-work month is one in which the employee neither earns over 1/12th of the annual exempt amount nor has substantial self-employment. Non-work months can be claimed in only one calendar year, which need not necessarily be the first year of entitlement.

In the calendar year in which an individual attains full social security retirement age, deductions of \$1 are made in tier I and vested dual benefits for every \$3 earned in excess of an exempt amount (\$30,000 in 2002), but only counting those earnings in the months prior to the month full retirement age is attained. These tier I and vested dual benefit deductions stop effective with the month full retirement age is attained.

Earnings consist of all wages received for services rendered plus any net earnings from self-employment. Interest, dividends, certain rental income or income from stocks, bonds, or other investments are not generally considered earnings for this purpose.

Annuitants under full retirement age who work after retirement and expect that their earnings for a year will be more than the annual exempt amount must promptly notify the Board and furnish an estimate of their expected earnings in order to prevent

an overpayment and penalties. They should also notify the Board if their original estimate changes significantly.

Retired employees and spouses who return to work for a railroad or for their last pre-retirement nonrailroad employer must notify the Board, regardless of earnings or age.

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 other post-retirement employment.

A spouse annuity is not payable for any month in which the employee's annuity is not payable, or for any month in which the spouse works for an employer covered under the Railroad Retirement Act.

Disability annuities.—If an annuity is based on disability, there are certain work restrictions that can affect payment, depending on the amount of earnings. The annuity is not payable for any month in which the annuitant works for an employer covered under the Railroad Retirement Act. The annuity is not payable for any month in which the annuitant earns more than \$400 in any employment or net self-employment, exclusive of work-related expenses. Withheld payments will be restored if earnings for the year are less than \$5,000 after deduction of disability-related work expenses. Otherwise, the annuity is subject to a deduction of one month's benefit for each multiple of \$400 earned over \$4,800 (the last \$200 or more of earnings over \$4,800 counts as \$400). Failure to report such earnings could involve a penalty charge.

These disability work restrictions cease upon a disabled employee annuitant's attainment of full retirement age, when the annuitant becomes subject to the work and earnings restrictions applicable to employee annuities based on age and service as described earlier. This transition is effective no earlier than full retirement age even if the annuitant had 30 years of service.

If a disabled annuitant works before full retirement age, this may also raise a question about the possibility of that individual's recovery from disability, regardless of the amount of earnings.

Consequently, any earnings must be reported promptly to avoid overpayments, which are recoverable by the Board and may also include penalties.

When Annuities Stop

Payment of any annuity stops upon the annuitant's death, and the annuity is not payable for any day in the month of death. A *spouse annuity* stops if the employee's annuity terminates. While a *divorce* ends eligibility for a spouse annuity, a divorced spouse may, under conditions described previously, qualify for a divorced spouse's annuity. A *divorced spouse's annuity* stops upon remarriage or upon entitlement to a social security benefit, based on her or his own earnings, if the unreduced social security benefit is equal to or greater than one-half of the employee's unreduced tier I amount. A divorced spouse's annuity may be reduced or stopped if the divorced spouse is also entitled to a railroad retirement annuity.

It is important to notify the Railroad Retirement Board promptly if one of the above changes occurs. Failure to report can result in an overpayment, which the Board will take action to recover, sometimes with interest or penalties. Failure to report changes promptly or making a false statement can also result in a fine or imprisonment.

SURVIVOR BENEFITS

Annuities are payable to surviving widows and widowers, children and certain other dependents. Lump-sum benefits are payable after the death of a railroad employee only if there are no qualified survivors of the employee immediately eligible for annuities. With the exception of a residual lump-sum death benefit, eligibility for survivor benefits depends on whether or not the employee was "insured" under the Railroad Retirement Act at the time of death.

An employee is insured if he or she has at least 10 years of railroad service, or 5 years performed after 1995, and a "current

connection” with the railroad industry as of the earlier of the month the annuity begins or the month of death. The current connection requirement is described earlier in this chapter.

If a deceased employee was not so insured, jurisdiction of any survivor benefits payable is transferred to the Social Security Administration and any survivor benefits are paid by that agency instead of the Board. Regardless of which agency has jurisdiction, the deceased employee’s railroad retirement and social security credits will be combined for the purpose of benefit computations.

Types of Survivor Benefits

Annuities are payable to widows, widowers and unmarried children; in certain cases, benefits are also payable to parents, remarried widow(er)s, grandchildren and surviving divorced spouses.

WIDOWS’ and WIDOWERS’ ANNUITIES are payable at:

Age 60; age reductions are applied to annuities awarded before full retirement age. The eligibility age for unreduced annuities is gradually rising from 65 to 67, depending on the year of birth.

Ages 50-59 if the widow(er) is totally and permanently disabled and unable to work in any regular employment. The disability must have begun within seven years after the employee’s death or within seven years after the termination of an annuity based on caring for a child of the deceased employee. A five-month waiting period is required after the onset of disability before a disability annuity can begin.

Any age if the widow(er) is caring for an unmarried child of the deceased employee under age 18 or a disabled child of any age who became disabled before age 22.

Generally, the widow(er) must have been married to the employee for at least nine months prior to death, unless she or he was the natural parent of their child, the employee’s death was accidental or while on active duty in the U.S. Armed Forces, or the widow(er) was potentially entitled to certain railroad retirement or social security benefits in the month before the month of death.

Survivor annuities may also be payable to a *surviving divorced spouse, or remarried widow(er)*. Benefits are limited to the amount social security would pay and therefore are less than the amount of the survivor annuity otherwise payable.

A surviving divorced spouse may qualify if she or he was married to the employee for at least 10 years, is unmarried or remarried under the conditions described in the next paragraph, and is age 60 or older (50 if disabled). A surviving divorced spouse who is unmarried can qualify at any age if caring for the employee's child and the child is under age 16 or disabled, in which case the 10-year marriage requirement does not apply.

The portion of a survivor annuity equivalent to a social security benefit (tier I) may be paid to a widow(er) or surviving divorced spouse who remarries after age 60, or to a disabled widow(er) or disabled surviving divorced spouse who remarries after age 50; however, remarriage prior to age 60 (or age 50 if disabled) would not prevent eligibility if such remarriage ends. Such social security level benefits may also be paid to a younger widow(er) or surviving divorced spouse caring for the employee's child who is under age 16 or disabled, if the remarriage is to a person receiving railroad retirement or social security benefits or the remarriage ends.

OTHER SURVIVOR ANNUITIES are payable to:

An unmarried child under age 18.

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.

An unmarried disabled child over age 18 if the child became totally and permanently disabled before age 22.

An unmarried dependent grandchild meeting any of the requirements described above for a child, if both the grandchild's parents are deceased or disabled.

A *parent* at age 60 who was dependent on the employee for at least half of the parent's support. If the employee was also survived by a widow(er), surviving divorced spouse or child who could ever qualify for an annuity, the parent's annuity is limited to the amount that social security would pay (tier I).

Survivor Annuity Estimates

The best way for survivors to obtain an annuity estimate is to visit or telephone the nearest Board field office. Active or retired employees who are concerned about the amount of benefits which would be payable to their survivors may also receive estimates from the nearest Board field office.

The average annuity awarded to widow(er)s in fiscal year 2001, excluding remarried widow(er)s and surviving divorced spouses, was \$1,041 a month. Children received \$932 a month, on the average. Total family benefits for widow(er)s with children averaged \$2,286 a month. The average annuity awarded to remarried widow(er)s or surviving divorced spouses in fiscal year 2001 was \$668 a month.

Survivor Annuity Tiers

Survivor annuities, like retirement annuities, consist of tier I and tier II components.

Tier I is based on the deceased employee's combined railroad retirement and social security credits, and is generally equivalent to the amount that would have been payable under social security.

Tier II amounts are percentages of the deceased employee's tier II amount, as described later in this chapter.

Survivor annuity amounts may also be determined under certain minimum provisions which guarantee that a widow(er)'s annuity will be at least equal to the two-tier benefit the deceased employee would have received at the time of the award of the widow(er)'s annuity, minus certain reductions including those for age and receipt of social security benefits, and no less than the spouse annuity she or he was receiving just prior to the employee's death.

Survivors with Dual Benefits

Social Security Benefits

The tier I portion is reduced by the amount of any social security benefits received by a survivor annuitant, even if the social security benefits are based on the survivor's own earnings. This reduction follows the 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. When both railroad retirement annuities and social security benefits are payable, they are generally combined into a single payment issued through the Board. A survivor annuitant must notify the Board if any benefits are received directly from the Social Security Administration or if those benefits increase.

Public Pensions

The tier I portion of a widow's or widower's annuity may be reduced for receipt of any Federal, State or local government pension based on the widow(er)'s own earnings. The reduction generally does not apply if the employment on which the public pension is based was covered under social security as of the last day of the individual's employment.* Most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction. For those subject to the public pension reduction, the tier I reduction is equal to 2/3 of the amount of the public pension.

Employee Annuity

If a widow(er) is qualified for a railroad retirement employee annuity as well as a survivor annuity, a special guaranty applies in some cases. If both the widow(er) and the deceased employee started railroad employment after 1974, the survivor annuity payable to the widow(er) is reduced by the amount of the employee annuity.

*A special rule applies to Federal employees who switch from the Civil Service Retirement System to the Federal Employees Retirement System.

If either the deceased employee or the survivor annuitant had some service before 1975 but had not completed 120 months of railroad service before 1975, the employee annuity and the tier II portion of the survivor annuity would be payable to the widow(er). The tier I portion of the survivor annuity would be payable only to the extent that it exceeds the tier I portion of the employee annuity.

If either the deceased employee or the survivor annuitant completed 120 months of railroad service before 1975, the widow or dependent widower may receive both an employee annuity and a survivor annuity, without a full dual benefit reduction.

Cost-of-living Increases in Survivor Annuities

Cost-of-living increases, effective December 1 and included in the January payment, are made on the basis of increases in national prices or, in some circumstances, average national wages, and calculated the same way as cost-of-living increases in employee and spouse annuities.

However, in the case of widow(er)s' annuities computed on the basis of the new initial minimum amount provided under 2001 legislation, the monthly payment will not increase until the amount payable under previous law plus cost-of-living increases is higher than the initial minimum amount.

Work and Earnings Limitations

A survivor annuity is not payable for any month the survivor works for an employer covered under the Railroad Retirement Act.

Survivors who are receiving social security benefits have their railroad retirement annuity and social security benefit combined for earnings limitations purposes. Prior to the calendar year in which full retirement age is attained, there is a deduction of \$1 in benefits for every \$2 earned over an exempt amount (\$11,280 in 2002). The deduction is \$1 for every \$3 earned over an exempt amount (\$30,000 in 2002) for the months in the calendar year in

which the individual attains full retirement age, up to the month of attainment. Work deductions stop effective with the month full retirement age is attained. In the first year in which a survivor is both entitled to an annuity and has a non-work month, a full annuity can be paid for those months in which the survivor had low earnings or did not have substantial self-employment, no matter what total earnings for the year were.

As work and earnings may affect the payment of an annuity, they must be reported promptly to the Board in order to prevent potential overpayments and penalties.

These earnings restrictions do not apply to disabled widows(er)s under age 60 or to disabled children. However, any work or earnings by a disability annuitant must be reported and are reviewed to determine whether they indicate recovery from the disability.

When Survivor Payments Stop

Payment stops upon death, and no annuity is payable for the month of death. Remarriage will reduce a widow(er)'s or parent's annuity rate and, in some cases, prevent payment. A child's or grandchild's annuity will stop if he or she marries. Any of the above occurrences must be reported promptly to the Board in order to prevent an overpayment.

Lump-sum Death Benefits

A lump-sum death benefit is payable to certain survivors of an employee with 10 or more years of railroad service, or less than 10 years if at least 5 years were after 1995, and a current connection with the railroad industry if there is no survivor immediately eligible for an annuity upon the employee's death.

The amount payable depends primarily on whether the deceased employee was credited with 10 years of service before January 1, 1975, in which case the average benefit payable is about \$900. In all other cases, the lump-sum benefit is \$255.

If the employee had 10 years of service prior to 1975, the lump-sum benefit is payable to the widow(er) if she or he were either living with or supported by the employee at the time of death, or if the employee were under a court order for support. If the employee was not survived by a qualified widow(er), the benefit may be paid to the funeral home or the payer of the funeral expenses, but the amount paid cannot exceed the actual costs involved. If the employee did not have 10 years of service before 1975, the lump sum is payable *only* to the widow(er) living in the same household as the employee at the time of the employee's death.

If the employee had less than 10 years of service but had 5 years after 1995, he or she must have met social security's insured status requirement for the lump sum to be payable.

If a widow(er) is eligible for monthly benefits at the time of the employee's death, but the widow(er) had excess earnings deductions which prevented annuity payments or for any other reason did not receive monthly benefits in the 12-month period beginning with the month of the employee's death totaling at least as much as the lump sum, the difference between the lump-sum benefit and monthly benefits actually paid, if any, is payable in the form of a deferred lump-sum benefit.

Residual lump-sum payment.—A residual lump-sum payment is, in effect, a refund of the employee's pre-1975 railroad retirement taxes plus an amount in lieu of interest, less benefits already paid. This payment is not made as long as monthly benefits are payable either at the time of the employee's death or in the future. However, a widow(er) or parent under age 60 can waive rights to future monthly benefits in order for the residual payment to be made if no other individual is potentially eligible.

An employee can designate a person as beneficiary for any residual payment that ever becomes due. Otherwise, it is payable to the widow(er), children, or other family members in a prescribed order of precedence.

Once a residual is paid, no further benefits are payable on the basis of the employee's railroad earnings.

Furthermore, the widow(er) or parent electing a residual also gives up rights to Medicare based on the deceased employee's railroad service. If the individual is not qualified for Medicare on her or his own earnings, or on the earnings of another person, she or he could qualify for Medicare as an uninsured person. However, she or he would have to pay substantial premiums for hospital insurance coverage, in addition to the normally required medical insurance premiums.

RETIREMENT-SURVIVOR INFORMATION

Applying for an Annuity

Applications for railroad retirement or survivor benefits are generally filed at one of the Board's field offices, or with a traveling Board representative at a customer outreach program service location or by telephone and mail. The Board accepts applications up to three months in advance of an annuity beginning date. However, applications for employee disability annuities may not be filed until an employee is no longer in compensated service. Compensated service includes the receipt of pay for time lost, some wage continuation payments, or any other employer compensation preventing the payment of railroad retirement benefits.

Persons applying for railroad retirement benefits will be automatically enrolled in the U.S. Treasury's Direct Deposit Program, which electronically transfers Federal payments into individuals' checking or savings accounts. However, Direct Deposit waivers are available to individuals who state that Direct Deposit would cause a hardship, and to individuals without bank accounts.

Under the Board's Customer Service Plan, employees and spouses who file for their annuity in advance will receive their first payment, or a decision, within 35 days of the beginning date of their annuity. If they did not file in advance, they will receive their first payment, or a decision, within 65 days of the date the application was filed. Applicants for disability annuities will receive a decision within 105 days of the date they filed their

application; if they are entitled to disability benefits, they will receive their first payment within 25 days of the date of the decision or the earliest payment date, whichever is later. Those filing for a railroad retirement survivor annuity or lump-sum benefit will receive the first payment, or a decision, within 65 days of the date the application was filed, or entitlement to benefits began, if later. Those already receiving a spouse annuity will receive the first payment, or a decision, within 35 days of the date the Board receives notice of the employee's death.

To expedite filing, applicants should telephone their local Board office for assistance. Certain documents are required when filing a railroad retirement annuity application, such as:

For employees and spouses:

- ☞ Proof of an employee's *age*.
- ☞ Proof of any *military service*.
- ☞ Proof of *marriage* if the spouse is eligible or will shortly become eligible for a spouse annuity. A divorced spouse must also furnish proof of *divorce* from the employee.
- ☞ Proof of the spouse's or divorced spouse's *age*.
- ☞ Proof of a *child's relationship and age*, if the spouse is applying for an annuity based on caring for the employee's child.
- ☞ Notice of any social security *benefit award* or other social security claim determination.

The best proof of age is a certified copy of a civil or church document recorded at or close to the time of birth. The best proof of marriage is a certified copy of the public or church record or the original marriage certificate. A divorced spouse must furnish a copy of the final divorce decree. Proof of military service may be a certificate of discharge, or any official military record that shows the dates of service.

Applicants for disability annuities are required to submit supporting medical information. They are sometimes asked to take a

special medical examination given by a doctor named by the Board.

An annuity is payable as of the first full month throughout which the employee and/or spouse is age 60, or age 62 in the case of reduced annuities.

The *retroactivity of a retirement annuity application* is limited to one year for disability annuities and six months for full age annuities. There is generally no retroactivity for reduced age annuities.

For survivors:

☞ A widow(er) must furnish proof of age, proof of marriage and proof of the employee's death. A surviving divorced spouse must furnish proof of divorce from the employee. If applying for a disability annuity, the widow(er) must also provide supporting medical evidence. A parent must furnish proof of relationship to the employee and proof of support from the employee.

☞ If children are eligible for benefits, proof of the relationship and age of each child is needed. If a child is over age 18 and disabled, supporting medical evidence is required. Eighteen-year-old students must provide proof of full-time elementary or high school attendance. A stepchild of the employee must provide proof of dependency on the employee.

Retroactivity of a survivor annuity application is one year for disabled widow(er)s and six months for full retirement age widow(er)s, mothers (fathers), children and parents. Retroactivity for widow(er)s ages 60-61 is six months if it does not increase the age reduction (this does not apply to surviving divorced spouses or remarried widow(er)s). Otherwise, there is generally no retroactivity for reduced age widow(er)s' annuities. Lump-sum death benefit applications must be filed within two years after the death of the employee. There is no time limit on filing for a residual payment.

Garnishment/Property Settlements

Garnishment.—Certain percentages of an employee, spouse or survivor annuity may be subject to legal process (i.e., garnishment) to enforce an obligation for child support and/or alimony payments.

Property settlements.—Employee tier II benefits, vested dual benefits and supplemental annuities are subject to court-ordered property settlements in proceedings related to divorce, annulment or legal separation. Tier I benefits are not subject to property settlements.

Representative Payees

Railroad retirement or health insurance benefit payments can be made to a representative payee for a beneficiary if it would best serve the interests of the beneficiary. Payments made in this way are generally for a child, or an adult incapable of using the benefits in his or her own interest. The representative payee must use the benefits for the beneficiary's best interest. The benefits are generally used to provide for basic needs. The representative payee must report events which could affect the payment of the benefits and be able to account for the benefits.

If Requirements for Benefits Are not Met

Retirement annuities are not payable by the Board unless the employee has 5 years (60 months) of creditable service after 1995 or 10 years (120 months) of service at any time. Service includes any creditable military service.

Survivor annuities are not payable unless the employee had a current connection with the railroad industry and either 5 years (60 months) of creditable service after 1995 or 10 years (120 months) of service at any time.

In either of the above circumstances, if the requirements are not met, the employee's railroad retirement credits are transferred to the Social Security Administration and treated as social security credits. Benefits paid by that agency would accordingly take into account both railroad and social security covered earnings.

The Railroad Retirement Act does not allow a former railroad employee to withdraw his or her retirement taxes. Like social security taxes, railroad retirement taxes are not refundable unless retirement tax withholding has exceeded annual maximums.

Railroad Retirement Taxes

By law, railroad retirement tier I payroll taxes are coordinated with social security taxes and increase automatically when social security taxes rise. Employees and employers pay tier I taxes which are the same as social security taxes. In addition, both

Table 3.--2002 Regular Railroad Retirement Taxes

	Tax rate	Maximum annual taxable earnings	
Tier I			
Employees and employers	7.65%*	\$84,900	
Tier II			
Employees	4.90%	\$63,000	
Employers	15.60%	\$63,000	
Annual regular taxes on employees earning \$84,900			
	Tier I	Tier II	Total
Employees	\$6,494.85	\$3,087.00	\$9,581.85
Employers	\$6,494.85	\$9,828.00	\$16,322.85

* The tier I tax rate is divided into 6.20% for railroad retirement and 1.45% for Medicare hospital insurance. The 2002 maximum earnings base for railroad retirement is \$84,900 and the Medicare hospital insurance tax is applied to all earnings. Consequently, employee and employer contributions continue to be made at the 1.45% rate, even after the employee has earned \$84,900.

employees and employers pay tier II taxes to finance railroad retirement benefit payments over and above social security levels.

The tier I tax on employers and employees is 7.65 percent in 2002. The tier II tax rate on rail employers and rail labor organizations was reduced from 16.10 percent to 15.60 percent in 2002 and to 14.20 percent in 2003 as a result of December 2001 legislation. The tier II tax rate for rail employee representatives is 14.75 percent in calendar year 2002 and 14.20 percent in 2003. An employee representative is a labor official of a non-covered labor organization who represents employees covered under the Acts administered by the Railroad Retirement Board.

While there is no change in the tier II tax rate of 4.90 percent on employees in the years 2002 and 2003, beginning with the taxes payable for calendar year 2004 tier II taxes on both employers and employees will be based on the ratio of certain asset balances to the sum of benefits and administrative expenses (the average account benefits ratio). Depending on the average account benefits ratio, tier II taxes for employers will range between 8.20 percent and 22.10 percent, while the tier II tax rate for employees will be between 0 percent and 4.90 percent.

Railroad retirement taxes apply to earnings on an annual basis. The amounts of earnings subject to these taxes are determined annually on the basis of national wage levels.

Dual Tax Payments

Since 1975, railroad employees who also worked for a social security covered employer in the same year may, under certain circumstances, receive a tax credit equivalent to any excess social security taxes withheld.

Employees who worked for two or more railroads in a year, or who had tier I taxes withheld from their Railroad Retirement Board sickness benefits in addition to their railroad earnings, may be eligible for a tax credit of any excess tier I or tier II railroad retirement taxes withheld. Employees who had tier I taxes withheld from their supplemental sickness benefits may also be eligible

for a tax credit of any excess tier I tax. Such tax credits may be claimed on an employee's Federal income tax return.

Employees who worked for two or more railroads, or had both railroad retirement and social security taxes withheld from their earnings, should see Internal Revenue Service publication 505, "Tax Withholding and Estimated Tax," for information on how to figure any excess railroad retirement or social security tax withheld.

Dual Railroad Retirement-Social Security Taxes Paid, 1951-74

An employee with 10 or more years of railroad service who is not entitled to a vested dual benefit payment may be entitled to a refund of excess social security taxes if his or her combined taxable earnings from the railroad retirement and social security systems in any year in the period 1951-74 exceeded a maximum annual amount creditable under the Railroad Retirement Act. Eligible employees will receive their refunds from the Board at retirement without applying for them. In the event an employee should die before receiving the refund, payment will be made to the employee's survivors.

Separation or Severance Payments

A lump sum, approximating railroad retirement tier II payroll taxes deducted from separation or severance payments, may be paid upon retirement to employees meeting minimum service requirements or their survivors to the extent that the separation or severance payments did not yield additional railroad retirement service or earnings credits. The lump-sum provision applies to separation and severance payments made after 1984.

Federal Income Tax on Railroad Retirement Benefits

The tier I portion of a railroad retirement annuity that is actually equivalent to a social security benefit is treated as a social security benefit for Federal income tax purposes. Depending on

the amount of other income received in the taxable year, a portion of these benefit payments may be subject to Federal income tax. The Railroad Retirement Act specifically exempts benefits paid by the Board from State and local income tax.

Tier I benefits exceeding social security benefits, such as retirement benefits payable between ages 60 and 62, and many occupational disability annuities, plus the tier II portions of railroad retirement annuities, vested dual benefits, and supplemental annuities paid by the Board are treated like private and public service pensions for Federal income tax purposes.

The Railroad Retirement Board and the Social Security Administration issue tax information statements to annuitants each January. In the absence of a request not to withhold, taxes are withheld from U.S. citizens or residents whose railroad retirement benefits in excess of the social security equivalent level total more than certain annual threshold amounts. Any amounts withheld during the taxable year are reflected on the annual statements.

Monitoring Retirement and Survivor Benefit Payments

Under several monitoring programs now in effect, the Board maintains contact with retirement and survivor beneficiaries in order to ensure the reporting of events which would require suspension or termination of monthly benefits. The records of beneficiaries are also checked with the Social Security Administration because annuities may be affected by nonrailroad earnings and because entitlement to social security benefits affects the amount of all annuities.

Representative payees.—Each person who is paid on behalf of another periodically receives a questionnaire. The purpose of the questionnaire is to determine whether the beneficiary is still living, how much of the benefits were used for support of the beneficiary and how any savings were invested.

Disability annuitants.—Disability annuitants receive a notice annually reminding them of their obligation to report all events

which may affect their continuing entitlement to a disability annuity. They must notify the Board if they perform *any* work (including self-employment). They must also notify the Board if their doctor tells them their condition has improved and they are able to work.

If a disability annuitant had substantial earnings, his or her physical condition is reviewed in order to determine whether or not there was a recovery from the disability. Notices are sent annually until the annuitant reaches full retirement age.

EMPLOYEE AND SPOUSE ANNUITY FORMULA COMPONENTS

The following describes railroad retirement annuity formula components as applied to new awards. The cost-of-living adjustments applied to annuities are described in previous pages of this chapter.

Employee Retirement Annuity

The amount of a regular annuity is the total of portions which are computed separately under different formulas and called tiers, plus any vested dual benefit payment also due.

Tier I

The first tier is calculated in generally the same way as a social security benefit. Any nonrailroad social security credits of an employee are combined with his or her railroad retirement credits for tier I computational purposes.

In computing tier I, an employee's creditable earnings are adjusted to take into account the changes in wage levels over a worker's lifetime. This procedure, called indexing, increases creditable earnings from past years to reflect average national wage levels just prior to the employee's first year of eligibility. The adjusted earnings are used to calculate "average indexed monthly earnings," and a formula is applied to determine the gross tier I amount.

For employees with less than 10 years of railroad service, tier I benefits are calculated only if the employee has at least 5 years of service after 1995 and an “insured status” under Social Security rules (usually 40 quarters of coverage), counting both railroad retirement and social security covered earnings.

Delayed retirement credits.—Tier I benefits are increased for each month an employee delays retirement past full retirement age up until age 70. For those who attain full retirement age on January 1, 2002, or later with a date of birth January 2, 1937, through January 1, 1939, the delayed retirement credit is 13/24 of 1 percent per month. For those who attain full retirement age in later years, the delayed retirement credit gradually increases each year until it becomes 8 percent per year beginning in 2008.

Age reductions.—For employees retiring between age 62 and full retirement age with less than 30 years of service, age reductions are applied separately to the components of an annuity. The tier I reduction is 1/180 for each of the first 36 months the employee is under full retirement age when his or her annuity begins and 1/240 for each additional month. As mentioned earlier, the full retirement age is gradually rising from 65 to 67, depending on the year of birth. The maximum annuity reduction for retirement at age 62 is gradually increasing from 20 percent to 30 percent.

The full retirement age for employee and spouse benefits increases from 65 to 66 and from 66 to 67 at the rate of two months per year over two separate six-year periods. These changes also affect how reduced benefits are computed for early retirement. The increase in full retirement age from age 65 to age 66 affects those people who were born in the years 1938 through 1942. The full retirement age will remain at age 66 for people born in the years 1943 through 1954. The increase in full retirement age from age 66 to age 67 affects those who were born in the years 1955 through 1959. For people who were born in 1960 or later, the full retirement age will be 67.

Reduced benefits continue to be available but at greater reductions. The reduction factor for early retirement of an employee

**Table 4.--Employee Retiring with
Less than 30 Years of Service**

Year of birth	Full retirement age	Annuity reduction at age 62
1937 or earlier	65	20.00%
1938	65 and 2 months	20.833%
1939	65 and 4 months	21.667%
1940	65 and 6 months	22.50%
1941	65 and 8 months	23.333%
1942	65 and 10 months	24.167%
1943 through 1954	66	25.00%
1955	66 and 2 months	25.833%
1956	66 and 4 months	26.667%
1957	66 and 6 months	27.50%
1958	66 and 8 months	28.333%
1959	66 and 10 months	29.167%
1960 or later	67	30.00%

remains the same as under preamendment law for the first 36 months of the reduction period regardless of the age of initial entitlement and will decrease to 1/240 for each month (if any) over 36. This will result in a gradual increase in the reduction at age 62 to 30 percent for an employee once the age 67 retirement age is in effect.

Age reductions are required in the tier I annuity amounts of 30-year employees who retired at ages 60-61 before 2002 and attained age 60 or completed 30 years of service after June 1984. The age reductions are applied *only* to the tier I annuity portion. If an employee affected by this provision was born before 1938 and attained 60/30 eligibility after December 1985, tier I is permanently reduced by approximately 20 percent. For those born after 1937 who retired before 2002, the reduction gradually increased as

described earlier. In both cases, the tier I amount is frozen until the first month throughout which the employee is age 62. It is then recomputed to reflect interim increases in national wage levels and will become subject to future cost-of-living increases. No reduction will apply if the employee retired at age 62 or older with 30 years of service, or at age 60 with 30 years of service and retirement is after 2001.

Workers' compensation or public disability benefit reductions.—For employees who are under age 65 and receiving a *disability* annuity, the tier I amount is, under certain circumstances, reduced for receipt of workers' compensation or public disability benefits.

Social security reductions.—After any required age reduction, the tier I amount is reduced by the amount of any social security benefits also payable but not to an amount below zero.

Reductions for public, non-profit or foreign pensions.—For employees who attain eligibility for both tier I benefits and certain government pension or other payments after 1985, a reduction may be required for receipt of a public pension based, in part or in whole, on employment not covered by railroad retirement or social security after 1956. This also applies to payments from a non-profit organization or from certain foreign governments or employers. Usually, an employee's tier I benefit will not be reduced by more than 1/2 of his or her pension from noncovered employment. However, if the employee is under age 65 and is receiving a disability annuity, the tier I benefit may be reduced by an additional amount if the pension from noncovered employment is a public disability benefit.

Tier II

The second tier of a regular annuity is computed under a separate formula, and is based on railroad service alone. Tier II benefits are equal to seven-tenths of 1 percent of the product which is obtained by multiplying an individual's years of service by such individual's average monthly compensation using the tier II tax base in the 60 months of highest earnings. The tier II component

is reduced by 25 percent of any gross employee vested dual benefit amount due.

Age reductions required for those employees retiring between age 62 and their full retirement age with less than 30 years of service are also applied to the tier II component of an annuity. The reduction is 1/180 for each of the first 36 months the employee is under full retirement age when his or her annuity begins and 1/240 for each additional month.

Full retirement age is gradually rising as mentioned earlier. However, if an employee had any creditable railroad service before August 12, 1983, full retirement age for tier II purposes will remain 65.

Employees with 5-9 years of creditable railroad service, if at least 5 years were after 1995, are eligible for tier II benefits the first full month they are age 62. Their tier II benefits are subject to the same age reductions that apply to employees with 10 to 29 years of service. If they are eligible on the basis of total disability, a tier II benefit is not payable until age 62 and that amount is reduced for early retirement.

Amount of Vested Dual Benefit Payment

To determine this additional annuity amount for a retired employee meeting the vesting requirements, the Railroad Retirement Board computes a social security benefit based solely on the individual's railroad service before 1975, and a social security benefit based solely on social security covered earnings before 1975. The vested dual benefit is the amount by which the total of these two computations exceeds a social security benefit based on combined railroad and social security covered earnings before 1975.

The vested dual benefit is increased by the cumulative cost-of-living percentage increases applicable to tier I benefits that occurred between January 1, 1975, and the date of retirement or January 1, 1982, whichever was earlier. The computed amount is then frozen; that is, no further cost-of-living increases are applied

thereafter. The amount of any vested dual benefit due is added to the tier portions and paid as part of the regular annuity.

The same age reduction applied to the tier I component is applied to the vested dual benefit component of an annuity for those employees retiring before full retirement age with less than 30 years of service.

Supplemental Annuity Formula

The amount of a supplemental annuity awarded after 1974 is equal to \$23 plus \$4 for each year of service over 25, up to a maximum of \$43. A fraction of \$4 is added for each fractional year of service.

If a retired employee also receives a private pension paid for entirely or in part by a railroad, the supplemental annuity is subject to reduction. The reduction is equal to the amount of the pension paid for by the employer. If the employer reduces the private pension because of the supplemental annuity, the amount of the reduction is restored to the supplemental annuity but does not raise it over the \$43 maximum. There is no reduction in the supplemental annuity for any part of a private pension paid for by the employee alone nor is there a reduction for a pension paid by a railroad labor organization.

Spouse Annuity

The spouse annuity formula is based on certain percentages of the employee's tier I and tier II amounts.

Tier I

The first tier of a spouse annuity is generally 1/2 of the employee's tier I amount after any reduction for the employee's non-covered service pension but before any reduction in the employee's annuity for early retirement or entitlement to a social security benefit. If an employee with less than 10 years of service but at least 5 years after 1995 is entitled to a tier I benefit, the spouse is also entitled to a tier I benefit.

Spouse age reductions.—Age reductions required for those spouses between age 62 and full retirement age of employees retiring with less than 30 years of service are applied separately to each annuity component. Full retirement age for a spouse is gradually rising, just as for an employee. Actuarially reduced benefits continue to be available but at greater reductions. The tier I reduction is $1/144$ for each of the first 36 months the spouse is under full retirement age when her or his annuity begins and will decrease to $1/240$ for each month (if any) over 36. This will result in a gradual increase in the reduction at age 62 from 25 percent to 35 percent for a spouse once the age 67 retirement age is in effect.

December 2001 legislation eliminated the tier I age reduction for employees ages 60 or 61 with 30 or more years of service whose railroad retirement annuities begin January 1, 2002, or later. The spouses of these employees are also eligible for full annuities at age 60.

Age reductions required for spouses of employees with 30 years of service who attained 60/30 eligibility after June 1984 but whose annuities began before January 2002 are applied only to the tier I portion of the spouse annuity. If the employee attained 60/30 eligibility before July 1984, retired at age 62 with 30 years' service, or begins receiving an annuity at ages 60 or 61 after 2001 with 30 years' service, the spouse tier I portion is not subject to these reductions.

If the employee's annuity is subject to 60/30 age reductions, the spouse of such an employee may receive a reduced tier I benefit, even if the spouse does not retire until age 62.

In reduced 60/30 spouse cases, the tier I benefit is equal to $1/2$ of the employee's reduced tier I on the employee's annuity beginning date and is also frozen until the first full month *throughout which both* the employee and spouse are age 62. Then it is recomputed based on $1/2$ of the employee's gross tier I amount and reduced for each month the spouse is under full retirement age at that time. If at the time of recomputation the spouse is already at full retirement age, or the spouse has a minor or disabled child in care, no age reduction would apply.

The spouse of a disability annuitant who is otherwise eligible for a 60/30 age annuity receives an age reduction if the spouse's annuity beginning date was before 2002. If the spouse's annuity beginning date is January 1, 2002, or later, the spouse can receive an unreduced annuity as early as age 60. If the spouse is entitled based on having a minor or disabled child in care, there is no age reduction.

Reductions for other benefits.—After any applicable age reduction required for the spouse's early retirement, the spouse tier I amount is reduced by the amount of any *social security benefit to which the spouse is entitled*.

The tier I amount may *also be reduced for certain Federal, State or local government pension payments* based on the spouse's own earnings. For spouses subject to the public pension reduction, the tier I reduction is equal to 2/3 of the public pension.

The spouse tier I amount may also be reduced if the employee under age 65 is receiving a disability annuity and a workers' compensation or public disability benefit.

Divorced spouse.—The annuity of a divorced spouse is limited to the tier I amount and thus equal to what social security would pay.

Tier II

The tier II amount is 45 percent of the employee's tier II amount before any age reductions. If the employee is awarded a vested dual benefit, the employee tier II amount used in computing the spouse benefit is the amount after the 25 percent reduction for the employee's vested dual benefit entitlement.

Age reductions.—As mentioned earlier, age reductions are gradually increasing. The tier II age reduction for spouses of employees retiring with less than 30 years of service is 1/144 for each of the first 36 months the spouse is under full retirement age when her or his annuity begins and decreases to 1/240 for each month (if any) over 36. However, if a railroad employee had any creditable railroad service before August 12, 1983, the employee

and spouse retirement age for tier II purposes will remain 65. Age reductions are not applied to spouse annuities based on the spouse's caring for a child.

Dual Annuities

If both the employee and spouse are railroad employees and either one had some railroad service before 1975, the spouse tier I amount is reduced by the amount of the railroad employee tier I to which the spouse is entitled and that reduction is restored in the spouse tier II amount. The spouse tier I amount cannot be reduced below zero.

If a spouse is also a railroad employee annuitant and both the employee and spouse started railroad employment after 1974, only the railroad employee annuity or the spouse annuity, whichever is larger, is payable to each spouse unless the smaller annuity is chosen.

A spouse who is also entitled to a survivor annuity on a different earnings record will likewise receive only the higher benefit unless the smaller benefit is chosen.

SURVIVOR ANNUITY FORMULA COMPONENTS

Tier I

The survivor tier I amount is based on the deceased employee's combined railroad retirement and social security credits, and is computed using social security formulas. In general, the survivor tier I amount is equal to the amount of survivor benefits that would have been payable under social security.

The *gross survivor tier I amount* (before reductions for early retirement, or other benefits) is generally equivalent to the unreduced tier I retirement benefit the deceased employee had, or would have, received.

For surviving aged or disabled widow(er)s, remarried widow(er)s and surviving divorced spouses whose annuities begin

a year or more after the employee's death, the "average indexed monthly earnings," upon which the tier I benefit is based, may be reindexed using a later year if it would result in a higher benefit provided the employee died before age 62. The reindexing takes into account changes in national earnings levels which occur after the employee's death but before the survivor becomes eligible for benefits. This provides a benefit consistent with earnings levels at the time of the survivor's eligibility, rather than the time of the employee's death.

A widow(er), surviving divorced spouse or remarried widow(er) *whose annuity begins at full retirement age* or later receives the full tier I amount unless the deceased employee received an annuity that was reduced for early retirement. The eligibility age for a full widow(er)'s annuity is gradually rising from 65 to 67. The maximum age reductions will range from 17.1 percent to 20.36 percent, depending on the widow(er)'s date of birth. For a surviving divorced spouse or remarried widow(er), the maximum age reduction is 28.5 percent. For a disabled widow(er), disabled surviving divorced spouse or disabled remarried widow(er), the maximum reduction is 28.5 percent, even if the annuity begins at age 50.

A widow(er) or surviving divorced spouse whose eligibility is *based on caring for a child* of the employee receives 75 percent of the full tier I amount. Benefits to a surviving divorced spouse end when the child is 16. An eligible child also receives 75 percent of the full tier I amount. The total amount the family can receive is subject to a maximum (usually applicable if there are three or more family members, not counting aged or disabled surviving divorced spouses, entitled to survivor annuities).

A dependent parent can receive 82.5 percent of the full tier I amount, but if both parents are eligible, the total amount cannot be more than 150 percent of the full tier I amount.

Dual benefit reduction.—The tier I amount described above is *reduced by the amount of any social security benefit* or by the tier I amount of any railroad retirement employee annuity the survivor also receives. If either the deceased employee or the widow(er) had some railroad service before 1975 but less than 120 months,

the survivor tier I portion is payable only to the extent that it exceeds the tier I portion of the widow(er)'s employee annuity. In the case of a widow or dependent widower who is also a railroad employee annuitant, and either the widow(er) or the deceased employee had 120 months of railroad service before 1975, the tier I reduction may be partially restored in the survivor tier II amount. If the widow(er) qualifies for a railroad retirement employee annuity and neither the widow(er) nor the deceased employee had any railroad service before 1975, the survivor annuity payable to the widow(er) is reduced by the amount of the widow(er)'s employee annuity.

The tier I amount may also be reduced by certain *Federal, State or local government pensions* which are based on the survivor's own earnings. For widow(er)s subject to the government pension reduction, the tier I reduction is equal to 2/3 of the public pension.

Tier II

Widow(er)s.—December 2001 legislation established an “initial minimum amount” which yields, in effect, a widow(er)'s tier II benefit equal to the tier II benefit the employee would have received at the time of the award of the widow(er)'s annuity, minus any applicable age reduction. It does this by adding a “guaranty amount,” initially set at 50 percent of the employee's tier II, to the 100 percent tier I and 50 percent tier II benefits provided under prior law.

This “guaranty amount” will be offset each year by the dollar amount of the cost-of-living increases payable in both the tier I and tier II benefits provided under prior law. Consequently, such a widow(er)'s net benefit payment will not increase until such time as the widow(er)'s annuity, as computed under prior law with all interim cost-of-living increases otherwise payable, exceeds the widow(er)'s annuity computed under the initial minimum amount formula.

The widow(er)s' guaranty provision applies to all widow(er)s whose annuities begin February 1, 2002, or later, and to some, but not all, widow(er)s on the rolls before that date; however, no

increases in annuities were payable retroactively. If, because of previous cost-of-living adjustments, annuities awarded before February 2002 were already higher than the annuity that would be payable under the December 2001 legislation, the guaranty did not apply.

The same *age reductions* that apply to tier I amounts also apply to tier II amounts.

If a widow(er) is also a railroad employee annuitant and both the widow(er) and the deceased employee started railroad employment after 1974, only the railroad retirement employee annuity or the survivor annuity, whichever is larger, is, in effect payable to the widow(er) unless the smaller annuity is chosen.

Other survivors.—Each child receives 15 percent of the deceased employee's tier II amount, and each surviving parent receives 35 percent. The minimum total tier II amount payable to a family is 35 percent of the employee's tier II amount, and the maximum, 130 percent.

A tier II benefit is not provided for a surviving divorced spouse or a remarried widow(er). A tier II benefit is not payable to surviving parents if other family members may receive benefits or if the parent has remarried.

APPEALS

A railroad worker, spouse, or survivor whose application for a benefit under the Railroad Retirement Act is denied, or one who is dissatisfied with the award, has the right of appeal; that is, he or she may ask for a reconsideration of the decision. The notification letter sent to the applicant at the time of the original award or denial of the claim informs him or her of the right to appeal.

An individual has 60 days, from the date of the initial notice of a decision on his or her claim, to file a written statement requesting reconsideration from the Board's Office of Programs. In decisions involving previous benefit overpayments, requests for waiver of the overpayment and a personal conference must be filed with the Bureau of Fiscal Operations within 30 days of the date of the

overpayment notice. In such cases, recovery of the overpayment will be deferred. Failure to request reconsideration within the allocated time period results in forfeiture of further appeal rights. A request for waiver received after 30 days will be considered but will not defer collection of the overpayment.

An individual has 60 days from the date of the notice of the Office of Programs' reconsideration decision to file an appeal with the Board's Bureau of Hearings and Appeals, which is a bureau independent of the Office of Programs. The Bureau of Hearings and Appeals is the highest authority below the three-member Board which hears and decides appeals under the Railroad Retirement Act. It may, if necessary, make further investigation in the case and obtain reports through the Board's field representatives, designated medical examiners, and others who may be in a position to furnish information pertinent to the appellant's claim. The appellant has the right to request an oral hearing. If one is held, it usually is conducted in the Board office closest to the appellant's home. In some cases, phone hearings are held. After thoroughly considering the case, the Bureau of Hearings and Appeals makes a decision and notifies the appellant of its action.

If an appellant is not satisfied with the Bureau of Hearings and Appeals' decision, he or she may appeal to the Board itself within 60 days from the date on which notice of the Bureau of Hearings and Appeals' decision is mailed. An appellant who is not satisfied with the Board's final decision may apply for a review of the case by a U.S. Circuit Court of Appeals. The petition for review must be filed within one year after notice of the three-member Board's decision has been mailed to the appellant.

