

### 5.13.1 General

The 1974 Railroad Retirement Act (RRA) provides tax refund for employees with social security employment not entitled to a windfall benefit. The refund is payable if the employee's combined taxable earnings in any year after 1950 from both systems exceeded the railroad retirement annual maximum for that year. The employee's excess social security taxes will be refunded by the Board for any year in the period 1951-1974 automatically to him upon his retirement. For years after 1974, an employee will have to apply for the excess social security taxes he paid when he files his income tax return.

This chapter explains when a tax refund is payable, how to compute a tax refund, and to whom a tax refund can be paid.

### 5.13.2 When a Tax Refund is Payable

The tax refund is payable to employees who are not dually vested for a windfall amount as of 12-31-74 on their own earnings record. An employee is considered to be dually vested on his own earnings record as of 12-31-74 if he meets one of the following conditions:

- A. He is fully insured under the SS Act as of 12-31-74 and:
  1. Has 10 years of RR service before 1975, and either
    - Engaged in railroad service in 1974; or
    - Had a current connection with the railroad industry either on 12-31-74 or on his ABD; or
  2. Had 25 years of railroad service prior to 1-1-75.
- B. The employee is dually vested if he:
  1. Did not engage in railroad service in 1974; and
  2. Did not have a current connection with the railroad industry either on 12-31-74, or at the time his annuity began to accrue; and
  3. Did not have 25 years of service prior to 1-1-75; but
  4. Did have 10 years of service prior to 1-1-75, and was permanently insured under the SS Act at the end of the last year before 1975 in which he engaged in railroad service.

Although the windfall amount cannot be paid until the employee meets the RIB or DIB entitlement requirements under the SS Act, the tax refund should be paid at

the time the initial award is made. Examiners should determine if the employee is dually vested and pay the tax refund if (s)he is not.

NOTE: In some disability annuity cases, a vested status may depend on whether the employee has a DF. In those cases, the tax refund should not be paid until the employee's DF vested status is determined.

DPS examiners will forward non-vested cases for payment of the tax refund if the DF is denied.

### 5.13.3 Amount of Tax Refund

The tax refund is equal to the sum of the percentage of the employee's combined earnings in excess of the SS maximum for the years 1951 through 1974. Creditable M/S after 1951 can be included in the combined yearly earnings as follows:

- \$160 for each month of M/S creditable under the RR Act after 1951 and before 1968, and
- \$260 for each month of M/S creditable under the RR Act after 1967 and through 1974, and
- Military service "basic pay" for months of M/S creditable under the SS Act after 1956.

M/S for the period from 1951 through 1956 was not initially included in either the manual or mechanical calculation of the tax refund. The mechanical program was corrected effective with G-90's printed January 17, 1979 or later. Refunds paid without including this M/S should be recomputed only if we receive an inquiry or complaint about the refund amount.

Normally, the tax refund will be computed mechanically by BCC and shown on Form G-90 in item 2 of page 1 with the caption "Excess Tax." However, if the tax refund must be determined manually, the following chart shows the maximum creditable compensation and wages for the period 1951-1974 and the percentage applicable to each year.

(A)	(B)	(C)
		<b>Maximum Creditable</b>
<b>Service Years</b>	<b>Percentage</b>	<b>Comp. &amp; Wages</b>
1951-1953	1.5	\$ 3,600
1954-1956	2.0	4,200
1957-1958	2.25	4,200
1959	2.5	4,800
1960-1961	3.0	4,800
1962	3.125	4,800

1963-1965	3.625	5,400
1966	4.2	6,600
1967	4.4	6,600
1968	3.8	7,800
1969-1970	4.2	7,800
1971	4.6	7,800
1972	4.6	9,000
1973	4.85	10,800
1974	4.95	13,200

Use the following steps to compute the tax refund amount:

Step 1 - Determine the employee's wages and compensation for each year, or period of years (when necessary).

Step 2 - Determine the years, or periods of years, when the employee's combined earnings exceed the maximum creditable wages and compensation (see chart above).

For each such year, subtract the amount of the maximum creditable wages and compensation from the employee's actual wages and compensation for that year.

Step 3 - Multiply the results from step 2 by the applicable percentage shown in the table above.

Step 4 - Total the results of step 3. This is the amount of the employee's tax refund.

#### EXAMPLE:

John Jones worked for the TCB Railroad from 1-1-47 through 12-31-74. During the Christmas season, he also worked as a Santa Claus for the local department store. Mr. Jones' G-90 shows combined wages and compensation for the 1951-1974 period as follows:

<b>Service Years</b>	<b>Combined Wages and Comp.</b>
1951-1953	10,890.00
1954-1956	12,700.00
1957-1958	8,550.00
1959	4,850.00
1960-1961	9,675.00
1962	4,830.00
1963-1965	16,290.00
1966	6,640.00
1967	6,640.00
1968	7,845.00
1969-1970	15,690.00

1971	7,845.00
1972	9,050.00
1973	10,850.00
1974	13,260.00

His tax refund is computed as follows:

Year	Excess Earnings		Percentage		Tax Refund
1951-1953	\$ 90.00	x	1.5	=	\$ 1.35
1954-1956	100.00	x	2.0	=	2.00
1957-1958	150.00	x	2.25	=	3.76
1959	50.00	x	2.5	=	1.25
1960-1961	75.00	x	3.0	=	2.25
1962	30.00	x	3.125	=	.94
1963-1965	90.00	x	3.625	=	3.26
1966	40.00	x	4.2	=	1.68
1967	40.00	x	4.4	=	1.76
1968	45.00	x	3.8	=	1.71
1969-1970	90.00	x	4.2	=	3.78
1971	45.00	x	4.6	=	2.07
1972	50.00	x	4.6	=	2.30
1973	50.00	x	4.85	=	2.43
1974	60.00	x	4.95	=	2.97
					\$33.51

When Mr. Jones was awarded an age and service annuity in September 1975, he was also paid his \$33.51 tax refund.

### 5.13.4 Effect of Tax Refund on Other Benefits

The tax refund has no effect on the payment of retirement benefits, either employee or spouse. However, the tax refund is a deductible amount for the residual lump sum in survivor cases, whether it was paid to the employee while alive or to his survivors after his death.

### 5.13.5 Paying Tax Refund in Retirement Cases

Most tax refunds are paid mechanically in the RASI system. When paying a tax refund manually, (RASI and the G-90 indicate that a tax refund is payable) take the following action:

- A. Award Form - Use Form G-375 to award the tax refund to an employee. Although the G-375 is self-explanatory, instructions for its completion are in RCM Chapter 8.6, "Employee Annuity Forms."

If an annuity is also being paid manually, Form G-375 should be submitted for vouchering after the annuity is in pay status.

- B. Award Notifications - If the tax refund is being paid manually, use Form G-69c to instruct the typist to include Code Paragraph 490 on the Form RL-24 award letter.

### 5.13.6 Paying Tax Refund in Survivor Cases

If the employee died after 1974, whether or not (s)he had retired, and the tax refund was not paid, the employee's survivors, or estate can receive the tax refund. An AA-21 is required from each survivor for payment of the tax refund.

- A. Priority of Payment - The tax refund is paid to an employee's survivors in the following order of precedence:
1. Widow(er). If living with the employee at the time of the employee's death. (Full amount.)
  2. Children. (Equal shares if more than one survives. Full amount to sole survivor.)
  3. Grandchildren. (Equal shares if more than one survives. Full amount to sole survivor.)
  4. Parents of deceased employee. (One-half to each if both survive. Full amount to sole survivor.)
  5. Brothers and sisters, including half-blood brothers and sisters. (Equal shares if more than one survives. Full amount to sole survivor.)
  6. Estate of deceased employee. (Full amount.)
- B. Evidence Requirements
1. For all cases - Proof of the employee's death.
  2. For payment to widow - Proof of marriage and proof of "living with" (statement on application is sufficient).
  3. For payment to other relatives - Proof of relationship to the employee. Needed if each person's share exceeds \$25.00. Needed from only one applicant if all applications list same relatives.
  4. For payment to the employee's estate - Proof of appointment of executor or administrator (if no appointment is made, handle according to "no administration" procedure).

- C. Paying Tax Refund - Pay the tax refund on SURPASS. Instructions for paying the award on SURPASS can be found in RCM 16.9. SURPASS will automatically include code paragraph 533.1 on the award notification.

The tax refund can be combined with an LSDP paid to the widow or with an RLS based on relationship. Do not combine the tax refund with an LSDP paid to other than the widow since the priority of payment is not the same.