



FROM THE DESK OF

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



U.S. RAILROAD RETIREMENT BOARD

V. M. Speakman, Jr.

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Reporting Events That Can Affect Railroad Retirement Benefits

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

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

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

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

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

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

A person should notify the Board when he or she files for social security benefits. If the Social Security Administration begins paying benefits directly to a railroad retirement annuitant without the

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Board's knowledge, an overpayment will occur. This frequently happens when a railroad employee's spouse or widow(er) is awarded social security benefits not based on the employee's earnings.

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

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

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

For employees first eligible for a railroad retirement annuity **and** a Federal, State or local government pension after 1985, there may be a reduction in tier I for receipt of a public pension based, in part or in whole, on employment not covered by social security or railroad retirement after 1956. This also applies to certain other payments not covered by social security, such as payments from a non-profit organization or from a foreign government or a foreign employer. However, it does not include military service pensions, payments by the Department of Veterans Affairs, or certain benefits payable by a foreign government as a result of a totalization agreement between that government and the United States.

The tier I portion of a spouse or widow(er)'s annuity may also be reduced for receipt of any Federal, State or local pension separately payable to the spouse or widow(er) based on her or his own earnings. The reduction generally does not apply if the employment on which the public pension is based was covered under the Social Security Act on the last day of public employment. (A special rule applies to Federal employees who switch from the Civil Service Retirement System to the Federal Employees Retirement System.) In addition, most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction.

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

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

3. What other event is a major cause of railroad retirement overpayments?

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

Legislation passed in April 2000 eliminated earnings deductions for those of full social security retirement age (age 65 in 2002). Deductions however, remain in effect for the months before the month of full retirement age during the calendar year of attainment. For those under age 65 throughout 2002, the exempt earnings amount is \$11,280 in 2002. For beneficiaries attaining age 65 in 2002, the exempt earnings amount is \$30,000 in 2002 for the months before the month age 65 is attained. For those under age 65, the earnings deduction is \$1 in benefits for every \$2 of earnings over the exempt amount. For those attaining age 65 in 2002, the deduction is \$1 for every \$3 of earnings over the exempt amount in the months before the month age 65 is attained.

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

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

A spouse benefit is subject to reductions not only for the spouse's earnings, but also for the

earnings of the employee, regardless of whether the earnings are from service for the last pre-retirement nonrailroad employer or other post-retirement employment.

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

Special restrictions limiting earnings to \$400 per month, exclusive of disability-related work expenses, apply to disabled railroad retirement employee annuitants.

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

These disability work restrictions apply until the disabled employee annuitant attains full retirement age (age 65 in 2002). This transition is effective no earlier than full retirement age even if the annuitant had 30 years of service. Also, a disabled employee annuitant who works for his or her last pre-retirement nonrailroad employer would be subject to the additional earnings deduction that applies in these cases.

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

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

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

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

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

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

Also, benefits paid to spouses, widow(er)s and surviving divorced spouses that are based on the beneficiary caring for an unmarried child of the employee are normally terminated by the Board when the child attains age 18 (16 for a surviving divorced spouse) or if a disabled child over age 18 (16 for a surviving divorced spouse) recovers from the disability. However, the Board must be notified if the child leaves the beneficiary's care or marries.

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

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

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

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

Annuitants should contact the nearest field office of the Board for information. If they write they should be sure to include their railroad retirement claim number. In any situation, the best rule is "If in doubt-report." The field office can not only advise the annuitant as to how a particular event would affect benefits but, in many cases, can take any necessary action at the field office level.

Annuitants can find the address and phone number of the Board office serving their area by calling the automated toll-free RRB Help Line at 1-800-808-0772. They can also get this information from the Board's Web site at www.rrb.gov. Most Board offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday.