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Working After Retirement

Retirees, and those planning retirement, should be aware of the railroad retirement laws governing benefit payments to annuitants who work after retirement.

The following questions and answers describe these railroad retirement work restrictions and earnings limitations on post-retirement employment, and how these rules can affect retirees engaging in self-employment.

1. What are the basic railroad retirement work restrictions and earnings limitations that apply to post-retirement work?

Neither a regular railroad retirement annuity (whether based on age and service or on disability) nor a supplemental annuity is payable for any month in which a retired employee, regardless of age, works for an employer covered under the Railroad Retirement Act, including labor organizations. This is true even if only one day's service is performed during the month and includes local lodge compensation totaling \$25 or more for any calendar month. Also, work by a local lodge or division secretary collecting insurance premiums, regardless of the amount of salary, is railroad work which must be stopped.

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, regardless of age, works for an employer covered under the Railroad Retirement Act. (A divorced spouse can receive an annuity even if the employee has not retired, provided they have been divorced for at least 2 years, the employee and divorced spouse are at least age 62, and the employee is fully insured under the Social Security Act using combined railroad and social security earnings. A court-ordered partition payment may be paid even if the employee is not entitled to an annuity provided that the employee has 10 years of railroad service or 5 years after 1995 and both the employee and former spouse are 62.) A survivor annuity is not payable for any month the survivor works for an employer covered under the Railroad Retirement Act, regardless of the survivor's age.

Also, 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 deductions if an annuitant's earnings exceed certain exempt amounts.

These earnings deductions do not apply to those who have attained full social security retirement age. Full retirement age for employees and spouses ranges from age 65 for those born before 1938 to

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age 67 for those born in 1960 or later. Full retirement age for survivor annuitants ranges from age 65 for those born before 1940 to age 67 for those born in 1962 or later. Deductions for all annuitants, however, remain in effect for the months before the month of full retirement age during the calendar year of attainment. (The attainment of full retirement age does not mean an annuitant can return to work for an employer covered under the Railroad Retirement Act. As explained above, no annuity is payable for any month in which the annuitant works for a railroad employer, regardless of the annuitant's age).

2. What are the current exempt earnings amounts for those annuitants subject to earnings limitations?

For those under full retirement age throughout 2011, the exempt earnings amount is \$14,160. For beneficiaries attaining full retirement age in 2011, the exempt earnings amount is \$37,680 for the months before the month full retirement age is attained.

For those under full retirement age throughout the year, the earnings deduction is \$1 in benefits for every \$2 of earnings over the exempt amount. For those attaining full retirement age in 2011, the deduction is \$1 for every \$3 of earnings over the exempt amount in the months before the month full retirement age is attained.

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

Additional deductions are assessed for retired employees and spouses who work for their last pre-retirement nonrailroad employer and special restrictions apply to disability annuitants.

3. What are the additional deductions applied to the annuities of retired employees and spouses working for their last pre-retirement nonrailroad employer?

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. The deductions in the tier II benefits and supplemental annuities of individuals who work for pre-retirement nonrailroad employers apply even if earnings do not exceed the tier I exempt earnings limits. Also, while tier I and vested dual benefit earnings deductions stop when an annuitant attains full retirement age, these tier II and supplemental annuity deductions continue to apply after the attainment of full retirement age. Work that begins on the same day as the annuity beginning date is not last pre-retirement nonrailroad employment.

4. Can a retired employee's earnings also reduce a spouse's benefit?

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.

5. What are the special earnings restrictions applied to disabled employee annuitants?

A disability annuity is not payable for any month in 2011 in which the disabled employee annuitant earns more than \$780 in any employment or net self-employment, exclusive of disability-related work expenses. If a disabled employee annuitant's earnings in a year (after deduction of disability-related work expenses) exceed the annual limit, the annuity is not payable for the number of months derived by dividing the amount by which those earnings exceed the annual limit by the amount of the monthly limit. Any resulting fraction of a month equal to or greater than one-half (0.5) is rounded up, increasing the number of months in which the annuity is not payable by one. For example, a disabled employee annuitant earns \$12,800 in 2011, which is \$3,050 over the 2011 annual limit of \$9,750. Dividing \$3,050 by \$780 yields 3.91. As .91 is more than one-half, the annuitant would lose 4 months of benefits.

These disability work restrictions cease upon a disabled employee annuitant's attainment of full retirement age. This transition is effective no earlier than full retirement age even if the annuitant had 30 years of service. Earnings deductions continue to apply to those working for their last pre-retirement nonrailroad employer.

If a disabled employee 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 RRB and may also include significant penalties.

6. Do the special earnings restrictions listed in question 5 apply to disabled widow(er) and disabled child annuitants?

The earnings restrictions listed in question 5 do not apply to disabled widow(er)s **under age 60** or to disabled children. However, the annuity of an unmarried disabled widow(er) technically becomes an age annuity when the widow(er) attains age 60. Therefore, regular annual earnings test restrictions apply beginning with the month the widow(er) attains age 60 and ending with the month before the month the widow(er) attains full retirement age.

All earnings in the year age 60 is attained are considered in determining excess earnings for that year. However, work deductions may apply only beginning with the month the widow(er) attains age 60.

Also, if a disabled widow(er) 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. Therefore, any earnings must be reported promptly to avoid overpayments, which are recoverable by the RRB and may also include significant penalties.

7. After becoming entitled to a railroad retirement annuity, a retired employee is thinking of becoming a self-employed contractor or consultant, and might be providing services for a railroad or last pre-retirement nonrailroad employer. How would this affect his or her railroad retirement annuity?

It depends on whether or not the Railroad Retirement Board (RRB) considers the employee to be truly engaging in self-employed contracting or consulting, or whether the RRB considers him or her to be functioning as an employee, and if so, who the RRB considers to be the actual employer for railroad retirement purposes.

If a retiree is considered to be functioning as a self-employed contractor or consultant, his or her annuity is subject to tier I and vested dual benefit earnings deductions for net self-employment earnings.

However, if a retiree is considered to be functioning as an employee of a railroad or railroad labor organization, rather than as a self-employed contractor or consultant, the retiree's annuity would be subject to suspension. If the retiree is considered the employee of a nonrailroad employer, the retiree's annuity would be subject to earnings deductions for nonrailroad wages, and to additional deductions if he or she is considered to be working for a last pre-retirement nonrailroad employer.

RRB determinations on contracting or consulting services take into account multiple factors which could be evaluated differently depending on the circumstances of the individual situation. Since no single rule covers every case, anyone requiring a determination as to whether contractor or consultant service is valid self-employment should contact the RRB for a determination well in advance of making a commitment so as to be sure of the effect on benefit payments.

8. How can individuals get more information about these railroad retirement work restrictions and earnings limitations?

Claimants with questions about railroad retirement work restrictions and earnings limitations should contact an RRB office by calling toll-free at 1-877-772-5772. Claimants can also find the address of the RRB office serving their area and get information about their claims and benefit payments by calling this toll-free number. Most RRB offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays. Field office locations can also be found by visiting www.rrb.gov.

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