

Railroad Retirement Board

§ 216.13

Retirement age means, with respect to an employee who attains age 62 before January 1, 2000 (age 60 in the case of a widow(er), remarried widow(er) or surviving divorced spouse) age 65. For an employee who attains age 62 (or age 60 in the case of a widow(er), remarried widow(er), or surviving divorced spouse) after December 31, 1999, retirement age means the age provided for in section 216(1) of the Social Security Act.

Social Security Act means the Social Security Act as amended.

Tier I benefit means the benefit component calculated using Social Security Act formulas and based upon earnings covered under both the Railroad Retirement Act and the Social Security Act.

Tier II benefit means the benefit component calculated under a formula found in the Railroad Retirement Act and based only upon earnings and service in the railroad industry.

Year of service means 12 calendar months, consecutive or otherwise, of service creditable to an employee as described in part 210 of this chapter.

§ 216.3 Other regulations related to this part.

This part is related to a number of other parts. Part 217 of this chapter describes how to apply for an annuity. Part 218 indicates when annuities begin and when they terminate. Part 219 sets out what evidence is necessary to prove eligibility. Where eligibility for an annuity is based upon a family relationship to an employee (for example, a widow's annuity), the definition of such family relationship may be found in part 222 of this chapter. Part 225 of this chapter describes the computation of the primary insurance amount.

Subpart B—Current Connection With the Railroad Industry

§ 216.11 General.

A current connection with the railroad industry is required to qualify for certain types of railroad retirement benefits. The existence of a current connection is clear in most cases where entitlement or death immediately follows continuous years of railroad employment. However, there are cases in

which the employee did not work for a railroad employer for a period of time before entitlement or death. In these situations, special tests are applied to determine whether the employee can be considered to have a current connection with the railroad industry for the purpose of determining his or her eligibility for an annuity or other benefits.

§ 216.12 When current connection is required.

(a) A current connection is required to qualify an individual for the following types of railroad retirement benefits:

(1) An employee occupational disability annuity as described in subpart D of this part;

(2) A supplemental annuity as described in subpart E of this part;

(3) An employee vested dual benefit in certain cases;

(4) A survivor annuity as described in subparts G, H, and I of this part; and

(5) A lump-sum death payment as described in part 234 of this chapter.

(b) A current connection which was established when an employee's annuity began is effective for:

(1) Any annuity under this part for which the employee later becomes eligible; and

(2) Any survivor annuity under this part or a lump-sum death payment under part 234 of this chapter.

§ 216.13 Regular current connection test.

An employee has a current connection with the railroad industry if he or she meets one of the following requirements:

(a) The employee has creditable railroad service in at least 12 of the 30 consecutive months immediately preceding the earlier of:

(1) The month his or her annuity begins; or

(2) The month he or she dies.

(b) The employee has creditable railroad service in at least 12 months in a period of 30 consecutive months and does not work in any regular non-railroad employment in the interval between the month the 30-month period ends and the earlier of:

(1) The month his or her annuity begins; or

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- (2) The month he or she dies.

§216.14 Regular non-railroad employment that will not break a current connection.

Regular non-railroad employment will not break an employee's current connection if it is performed during the 30-month period described in §216.13(b), in or after the month the annuity begins, or in the month the employee dies.

§216.15 Special current connection test.

(a) *For survivor annuities.* An employee who does not have a current connection under the regular test has a current connection only to qualify an individual for a survivor annuity if:

- (1) The employee would not be fully or currently insured under section 214 of the Social Security Act if his or her railroad compensation after 1936 were treated as social security earnings;

- (2) The employee has no quarters of coverage as defined in section 213 of the Social Security Act; or

- (3) The employee received a pension or a retirement annuity that began before 1948 based on at least 114 months of service.

(b) *For survivor and supplemental annuities.* An employee who does not have a current connection under the regular test has a current connection in order to pay a supplemental or survivor annuity if he or she meets all of the following requirements:

- (1) Has been credited with at least 25 years of railroad service;

- (2) Stopped working in the railroad industry "involuntarily and without fault" on or after October 1, 1975, or was on furlough, leave of absence or absent for injury on that date;

- (3) Did not decline an offer of employment in the same "class or craft" as his or her most recent railroad service; and

- (4) Was alive on October 1, 1981.

(c) *"Involuntarily and without fault" defined.* An employee is considered to have stopped railroad employment involuntarily and without fault if:

- (1) The employee loses his or her job;

- (2) The employee could not, through the exercise of seniority rights, remain in railroad service in the same class or

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craft as his or her most recent railroad service, regardless of the location where that service would be performed; and

- (3) The employee did not lose his or her job because of poor job performance, misconduct, medical reasons or other action or inaction on the part of the employee.

(d) *Effect of separation allowance.* An employee who accepts a separation allowance and in so doing relinquishes his or her seniority rights to railroad employment is deemed to have voluntarily terminated his or her railroad service. However, if the employee stopped railroad employment involuntarily and without fault, as defined in paragraph (c) of this section, receipt of a separation allowance will not affect a current connection under paragraph (b) of this section.

(e) *"Class or craft" defined.* The terms "class or craft," as used in this section, have the same meaning as they do generally in the railroad industry.

(f) *For supplemental annuities only.* An additional special current connection test is required for an individual who was receiving a disability annuity which terminated due to the individual's recovery from disability. If the individual becomes entitled to a new annuity, a new current connection test based on the new annuity beginning date must be made. This test is made using the rules contained in §§216.13 and 216.17.

§216.16 What is regular non-railroad employment.

(a) Regular non-railroad employment is full or part-time employment for pay.

(b) Regular non-railroad employment does not include any of the following:

- (1) Self-employment;

- (2) Temporary work provided as relief by an agency of a Federal, State, or local government;

- (3) Service inside or outside the United States for an employer under the Railroad Retirement Act, even if the employer does not conduct the main part of its business in the United States;