

§ 230.2

the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger. (Section 2(d) of the act.)

§ 230.2 Loss of annuity for month in which compensated service is rendered.

If an individual in receipt of an annuity renders compensated service, he shall not be paid an annuity with respect to any month in which such service is rendered to:

- (a) An employer;
- (b) Any person whether or not an employer by whom he was most recently employed when his annuity begins to accrue;
- (c) Any person with whom he held, at the time the annuity begins to accrue, any rights to return to service;
- (d) Any person with whom he ceased service in order to have his annuity begin to accrue.

[Board Order 60-2, 25 FR 593, Jan. 23, 1960; 25 FR 1074, Feb. 6, 1960. Redesignated at 47 FR 7656, Feb. 22, 1982]

§ 230.5 Exception concerning service to a local lodge or division.

In determining whether an annuity is subject to the provisions of this part the Board shall disregard any compensated service rendered after December 31, 1936, to a local lodge or division of a railway-labor-organization employer if the compensation for such service is required to be disregarded under the provisions of § 222.3(f) of this chapter.

[Board Order 40-742, 6 FR 298, Jan. 14, 1941. Redesignated at 47 FR 7656, Feb. 22, 1982]

PART 233—REDUCTION IN THE WINDFALL BENEFIT ANNUITY COMPONENT

- Sec.
- 233.1 When reduction must be made.
- 233.2 Computation of reduction.
- 233.3 Reduction of retroactive and other similar payments.
- 233.4 Reconsideration of the reduction computation.

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§ 233.1 When reduction must be made.

On or before August 31 of each fiscal year, the Board shall, in accordance with this section, determine the amount of the reduction, if any that will have to be made in the following fiscal year in the amount of the windfall benefit components of persons entitled to such benefit components under the Railroad Retirement Act. A reduction must be made where it is determined that the balance in the Dual Benefits Payments Account, comprised of such funds as will be available for the payment of windfall benefits in the following fiscal year including the enacted or estimated appropriation to the Account for the next succeeding fiscal year, disregarding any interest which may be earned by the moneys in the Account during the next fiscal year, is less than the estimate of the amount of the windfall benefits that would be payable under the Railroad Retirement Act during such fiscal year if no reduction were to be applicable. The amount of the windfall benefit as determined by the Board and paid to a person under this section shall constitute full and complete payment of the person's windfall component and there shall be no further liability on the part of the Board, the U.S. Government, or any other person or entity for the amount of any reduction imposed.

§ 233.2 Computation of reduction.

The amount of the reduction to be made in the windfall benefit components of annuities shall be determined in the following manner: the balance in the Dual Benefits Payments Account as determined under § 233.1 shall be divided by the amount of the estimated windfall benefits that would be payable for the fiscal year as determined under § 233.1 to obtain a percentage. This percentage of the unreduced windfall benefit component shall be the amount of that component to which persons are entitled under the Railroad Retirement Act. In no event, however, shall the amount of the windfall benefit exceed the amount that would be payable under the Railroad Retirement Act without regard to this section.

§ 233.3 Reduction of retroactive and other similar payments.

If a person is entitled to a retroactive payment for a month or months in an earlier fiscal year, the reduction factor as imposed with respect to the windfall component of the person's annuity, including that portion attributable to an earlier fiscal year, shall be the reduction factor applicable in the year of payment: *Provided, however*, That if the application of the payment year reduction factor would result in a larger payment than would the application of the earlier year reduction factor, the earlier year reduction factor shall be applied. The reduction factor imposed in the case of a replacement payment shall be that reduction factor which was applicable to the original payment. The term "replacement payment" means a payment made to a beneficiary to replace a check which was issued to the beneficiary in an earlier month, but which was not negotiated, and "replacement payment" also means a payment made to the beneficiary for an earlier month in which his or her annuity was not paid for some reason such as lack of a current address.

§ 233.4 Reconsideration of the reduction computation.

The Board shall periodically, but at least quarterly, examine the determinations and calculations made under §§ 233.1 and 233.2, in view of changes which may occur in the estimates used. If, as a result of this examination, the Board determines that the balance in the Dual Benefits Payments Account will be insufficient to pay benefits from that Account for the balance of the fiscal year at the established rate, the Board shall establish a new rate of reduction to be applied to benefits to be paid for the remaining months so that the balance in the Dual Benefits Payments Account will be sufficient to pay benefits for the remainder of the fiscal year. If, as a result of this examination, the Board finds that the balance in the Account is greater than would be required to pay benefits at the then applicable reduction percentage for the remainder of the fiscal year, the Board may, at its discretion, decrease the reduction percentage with

respect to benefits to be paid for the remaining months.

PART 234—LUMP-SUM PAYMENTS**Subpart A—General**

- Sec.
234.1 Introduction.
234.2 Definitions.

Subpart B—Lump-Sum Death Payment

- 234.10 General.
234.11 1974 Act lump-sum death payment.
234.12 1937 Act lump-sum death payment.
234.13 Payment to a funeral home.
234.14 Payment to an equitably entitled person.
234.15 When an employee's estate is entitled.
234.16 When a widow(er) is eligible as an equitably entitled person.
234.17 When an equitably entitled person's estate is payable.
234.18 Payment of a deferred lump-sum to a widow(er).
234.19 Effect of payment on future entitlement.
234.20 Computation of the employee's 1937 Act LSDP basic amount.
234.21 Definitions of "living with" and "living in the same household."

Subpart C—Annuities Due but Unpaid at Death

- 234.30 General.
234.31 Regular employee retirement and supplemental annuities.
234.32 Spouse or divorced spouse annuities.
234.33 Survivor annuities.
234.34 When an entitled relative of the employee dies before receiving payment of a due but unpaid annuity.

Subpart D—Residual Lump-Sum Payment

- 234.40 General.
234.41 Persons to whom an RLS is payable.
234.42 How the employee may designate beneficiaries.
234.43 Payment to designated beneficiaries.
234.44 Payment to surviving relatives.
234.45 Payment to the employee's estate.
234.46 Amount of the RLS payable.
234.47 Election of the RLS by a widow(er) or parent.
234.48 Computation of the gross RLS amount.

Subpart E—Lump-Sum Refund Payment

- 234.50 General.
234.51 Persons to whom a lump-sum refund payment is payable.
234.52 Effect of payment on other benefits.