

## § 227.5

### § 227.5 Employer tax credits.

Employers are entitled to tax credits if they pay non-negotiated pensions to former employees whose supplemental annuities are reduced because of the pensions. Non-negotiated pensions are paid under pension plans that are not established by collective bargaining agreements. The tax credits for each month equal the sum of the reductions for employer pensions in the supplemental annuities of all former employees for that month. The Board sends a report of total tax credits to each employer after the end of each calendar quarter. The credits are applied to the man-hour supplemental annuity tax the employer pays the Internal Revenue Service under section 3221 of the Railroad Retirement Tax Act.

## PART 228—COMPUTATION OF SURVIVOR ANNUITIES

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### Subpart A—General

#### § 228.1 Introduction.

(a) *What does this part include?* This part includes the computation of a widow(er)'s, disabled widow(er)'s, remarried widow(er)'s, surviving divorced spouse's, parent's, and child's insurance annuity under the Railroad Retirement Act. This part describes the two annuity components or tiers which are included in these annuities. The tier I annuity component, which may be payable in all of the above annuities, is described in subpart B of this part. Subpart C of this part describes the tier II annuity component which is only applicable to the widow(er)'s, disabled widow(er)'s, parent's, and child's annuity.

(b) *Other relevant parts.* (1) Part 225, Primary Insurance Amount Determinations, describes the various types of primary insurance amounts which form the basis of the computation of the tier I annuity component described in this part.

(2) Part 216, Eligibility for an Annuity, describes the eligibility requirements for receipt of the annuity computations described in this part.

#### § 228.2 Tier I and tier II annuity components.

(a) *Tier I annuity component.* The Tier I annuity component is generally the amount that would have been payable under the Social Security Act if all of the employee's earnings after 1936 under both the railroad retirement system and the social security system had been creditable under the Social Security Act.

(b) *Tier II annuity component.* The tier II annuity component is the portion of the survivor's annuity which is based on an employee's railroad earnings only. The tier II component of an annuity described in this part is a specified percentage of the employee's actual or anticipated tier II annuity component.

### Subpart B—The Tier I Annuity Component

#### § 228.10 Computation of the tier I annuity component for a widow(er), disabled widow(er), remarried widow(er), and a surviving divorced spouse.

The tier I annuity component for these beneficiaries is generally based on the survivor tier I Primary Insurance Amount (PIA). The survivor tier I PIA is determined in accordance with section 215 of the Social Security Act using the deceased employee's combined railroad and social security earnings after 1950 (or after 1936 if a higher PIA would result) up to the maximum creditable amounts through the year of the employee's death. See part 225 of this chapter. This amount may be further adjusted for certain reductions or deductions as described in §§ 228.15–228.20 of this part and is subject to the family maximum. See § 228.14 of this part.

#### § 228.11 Computation of the tier I annuity component of a widow(er) with a child in care, remarried widow(er) with a child in care, or a surviving divorced spouse with a child in care.

The tier I annuity component of a widow(er), remarried widow(er), or a surviving divorced spouse with a child of the employee in his or her care is 75 percent of the PIA computed under § 228.10 of this part. The amount may be adjusted for certain reductions and deductions described in §§ 228.15–228.20 of this part and is subject to the family maximum. See § 228.14 of this part.

#### § 228.12 Computation of the tier I annuity component of a child's insurance annuity.

The tier I annuity component of a child's insurance annuity is 75 percent of the PIA computed under § 228.10 of this part. The amount may be adjusted

for the family maximum. See § 228.14 of this part.

#### § 228.13 Computation of the tier I annuity component of a parent's insurance annuity.

The tier I annuity component of a parent's insurance annuity is dependent on whether one or two parents are entitled.

(a) *One parent entitled.* A parent's tier I annuity component is equal to 82½ percent of the PIA computed under § 228.10 of this part.

(b) *More than one parent entitled.* A parent's tier I annuity component is equal to 75 percent of the PIA computed under § 228.10 of this part.

(c) The amounts computed under paragraph (a) or (b) of this section may be adjusted for the family maximum. See § 228.14 of this part.

#### § 228.14 Family maximum.

(a) *Family maximum defined.* Under the Social Security Act, the amount of total monthly benefits that can be paid for any month on one person's earnings record is limited. This limited amount is called the family maximum. The family maximum is based on the survivor tier I PIA (see part 225 of this chapter). Generally, if three or more persons are entitled to benefits, their benefits will be adjusted for the family maximum.

(b) *Computation of the family maximum—*(1) *The employee attains age 62, has a period of disability or dies prior to 1979.* The maximum is the amount appearing in column V of the applicable table published each year by the Secretary of Health and Human Services on the line on which appears in column IV the primary insurance amount of the insured individual whose compensation is the basis for the benefits payable. Where the total of the survivor benefits exceeds the maximum, the total tier I benefits for each month after 1964 are reduced to the amount appearing in column V. Each survivor's benefit is proportionately reduced, based on the percentage of the PIA used to compute the survivor benefits. However, when any of the persons entitled to benefits on the insured individual's compensation would, except for the limitation described in § 404.353(b)