

exceed the actuarial value of a benefit in the form of a life annuity payable in monthly installments, commencing at age 65 equal to the lesser of the amounts computed in paragraphs (a) and (b) of this section.

(a) One-twelfth of the participant's average annual gross income from his employer during either his highest-paid five consecutive calendar years in which he was an active participant under the plan, or if he was not an active participant throughout the entire such period, the lesser number of calendar years within that period in which he was an active participant under the plan.

(1) As used in this paragraph, "gross income" means "earned income" as defined in section 911(b) of the Code, determined without regard to any community property laws.

(2) For the purposes of this paragraph, if the plan is one to which more than one employer contributes, and during any calendar year the participant received gross income from more than one such contributing employer, then the amounts so received shall be aggregated in determining the participant's gross income for the calendar year.

(b) \$750 multiplied by the fraction  $x/13,200$  where "x" is the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the termination date of the plan.

**§ 4022.23 Computation of maximum guaranteeable benefits.**

(a) *General.* Where a benefit is payable in any manner other than as a monthly benefit payable for life commencing at age 65, the maximum guaranteeable monthly amount of such benefit shall be computed by applying the applicable factor or factors set forth in paragraphs (c)–(e) of this section to the monthly amount computed under § 4022.22. In the case of a step-down life annuity, the maximum guaranteeable monthly amount of such benefit shall be computed in accordance with paragraph (f) of this section.

(b) *Application of adjustment factors to monthly amount computed under § 4022.22.* (1) Each percentage increase or decrease computed under paragraphs

(c), (d), and (e) of this section shall be added to or subtracted from a base of 1.00, and the resulting amounts shall be multiplied.

(2) The monthly amount computed under § 4022.22 shall be multiplied by the product computed pursuant to paragraph (b)(1) of this section in order to determine the participant's and/or beneficiary's maximum benefit guaranteeable.

(c) *Annuitant's age factor.* If a participant or the beneficiary of a deceased participant is entitled to and chooses to receive his benefit at an age younger than 65, the monthly amount computed under § 4022.22 shall be reduced by the following amounts for each month up to the number of whole months below age 65 that corresponds to the later of the participant's age at the termination date or his age at the time he begins to receive the benefit: For each of the 60 months immediately preceding the 65th birthday, the reduction shall be  $\frac{1}{12}$  of 1%; For each of the 60 months immediately preceding the 60th birthday, the reduction shall be  $\frac{1}{12}$  of 1%; For each of the 120 months immediately preceding the 55th birthday, the reduction shall be  $\frac{2}{12}$  of 1%; and For each succeeding 120 months period, the monthly percentage reduction shall be  $\frac{1}{2}$  of that used for the preceding 120 month period.

(d) *Factor for benefit payable in a form other than as a life annuity.* When a benefit is in a form other than a life annuity payable in monthly installments, the monthly amount computed under § 4022.22 shall be adjusted by the appropriate factors on a case-by-case basis by PBGC. This paragraph sets forth the adjustment factors to be used for several common benefit forms payable in monthly installments.

(1) *Period certain and continuous annuity.* A period certain and continuous annuity means an annuity which is payable in periodic installments for the participant's life, but for not less than a specified period of time whether or not the participant dies during that period. The monthly amount of a period certain and continuous annuity computed under § 4022.22 shall be reduced by the following amounts for each month of the period certain subsequent to the termination date:

For each month up to 60 months deduct  $\frac{1}{24}$  of 1%;

For each month beyond 60 months deduct  $\frac{1}{12}$  of 1%.

(i) A cash refund annuity means an annuity under which if the participant dies prior to the time when he has received pension payments equal to a fixed sum specified in the plan, then the balance is paid as a lump-sum death benefit. A cash refund annuity shall be treated as a benefit payable for a period certain and continuous. The period of certainty shall be computed by dividing the amount of the lump-sum refund by the monthly amount to which the participant is entitled under the terms of the plan.

(ii) An installment refund annuity means an annuity under which if the participant dies prior to the time he has received pension payments equal to a fixed sum specified in the plan, then the balance is paid as a death benefit in periodic installments equal in amount to the participant's periodic benefit. An installment refund annuity shall be treated as a benefit payable for a period certain and continuous. The period of certainty shall be computed by dividing the amount of the remaining refund by the monthly amount to which the participant is entitled under the terms of the plan.

(2) *Joint and survivor annuity (contingent basis)*. A joint and survivor annuity (contingent basis) means an annuity which is payable in periodic installments to a participant for his life and upon his death is payable to his beneficiary for the beneficiary's life in the same or in a reduced amount. The monthly amount of a joint and survivor annuity (contingent basis) computed under §4022.22 shall be reduced by an amount equal to 10% plus  $\frac{2}{10}$  of 1% for each percentage point in excess of 50% of the participant's benefit that will continue to be paid to the beneficiary. If the benefit payable to the beneficiary is less than 50 percent of the participant's benefit, PBGC shall provide the adjustment factors to be used.

(3) *Joint and survivor annuity (joint basis)*. A joint and survivor annuity (joint basis) means an annuity which is payable in periodic installments to a

participant and upon his death or the death of his beneficiary is payable to the survivor for the survivor's life in the same or in a reduced amount. The monthly amount of a joint and survivor annuity (joint basis) computed under §4022.22 shall be reduced by an amount equal to  $\frac{4}{10}$  of 1% for each percentage point in excess of 50% of the participant's original benefit that will continue to be paid to the survivor. If the benefit payable to the survivor is less than 50 percent of the participant's original benefit, PBGC shall provide the adjustment factors to be used.

(e) When a benefit is payable in a form described in paragraph (d)(2) or (3) of this section, and the beneficiary's age is different from the participant's age, by 15 years or less, the monthly amount computed under §4022.22 shall be adjusted by the following amounts: If the beneficiary is younger than the participant, deduct 1% for each year of the age difference; If the beneficiary is older than the participant, add  $\frac{1}{2}$  of 1% for each year of the age difference. In computing the difference in ages, years over 65 years of age shall not be counted. If the difference in age between the beneficiary and the participant is greater than 15 years, PBGC shall provide the adjustment factors to be used.

(f) *Step-down life annuity*. A step-down life annuity means an annuity payable in a certain amount for the life of the participant plus a temporary additional amount payable until the participant attains an age specified in the plan.

(1) The temporary additional amount payable under a step-down life annuity shall be converted to a life annuity payable in monthly installments by multiplying the appropriate factor based on the participant's age and the number of remaining years of the temporary additional benefit by the amount of the temporary additional benefit. The factors to be used are set forth in the table below. The amount of the monthly benefit so calculated shall be added to the level amount of the monthly benefit payable for life to determine the level-life annuity that is equivalent to the step-down life annuity.

**Pension Benefit Guaranty Corporation**

**§ 4022.24**

**FACTORS FOR CONVERTING TEMPORARY ADDITIONAL BENEFIT UNDER STEP-DOWN LIFE ANNUITY**

Age of participant <sup>1</sup> at the later of the date the temporary additional benefit commences or the date of plan termination	Number of years temporary additional benefit is payable under the plan as of the date of plan termination <sup>2</sup>									
	1	2	3	4	5	6	7	8	9	10
45 .....	0.060	0.117	0.170	0.220	0.268	0.315	0.355	0.395	0.435	0.475
46 .....	.061	.119	.173	.224	.273	.321	.362	.403	.444	.485
47 .....	.062	.121	.176	.228	.278	.327	.369	.411	.453	.495
48 .....	.063	.123	.179	.232	.283	.333	.376	.419	.462	.505
49 .....	.064	.125	.182	.236	.288	.339	.383	.427	.471	.515
50 .....	.065	.127	.185	.240	.293	.345	.390	.435	.480	.525
51 .....	.066	.129	.188	.244	.298	.351	.397	.443	.489	.535
52 .....	.067	.131	.191	.248	.303	.357	.404	.451	.498	.545
53 .....	.068	.133	.194	.252	.308	.363	.411	.459	.507	.555
54 .....	.069	.135	.197	.256	.313	.369	.418	.467	.516	.565
55 .....	.070	.137	.200	.260	.318	.375	.425	.475	.525	.575
56 .....	.072	.141	.206	.268	.328	.387	.439	.491	.543	.....
57 .....	.074	.145	.212	.276	.338	.399	.453	.507	.....	.....
58 .....	.076	.149	.218	.284	.348	.411	.467	.....	.....	.....
59 .....	.078	.153	.224	.292	.358	.423	.....	.....	.....	.....
60 .....	.080	.157	.230	.300	.368	.....	.....	.....	.....	.....
61 .....	.082	.161	.236	.308	.....	.....	.....	.....	.....	.....
62 .....	.084	.165	.242	.....	.....	.....	.....	.....	.....	.....
63 .....	.086	.169	.....	.....	.....	.....	.....	.....	.....	.....
64 .....	.088	.....	.....	.....	.....	.....	.....	.....	.....	.....

<sup>1</sup> At last birthday.  
<sup>2</sup> If the benefit is payable for less than 1 yr, the appropriate factor is obtained by multiplying the factor for 1 yr by a fraction, the numerator of which is the number of months the benefit is payable, and the denominator of which is 12. If the benefit is payable for 1 or more whole years, plus an additional number of months less than 12, the appropriate factor is obtained by linear interpolation between the factor for the number of whole years the benefit is payable and the factor for the next year.

(2) If a participant is entitled to and chooses to receive a step-down life annuity at an age younger than 65, the monthly amount computed under §4022.22 shall be adjusted by applying the factors set forth in paragraph (c) of this section in the manner described in paragraph (b) of this section.

(3) If the level-life monthly benefit calculated pursuant to paragraph (f)(1) of this section exceeds the monthly amount calculated pursuant to paragraph (f)(2) of this section, then the monthly maximum benefit guaranteeable shall be a step-down life annuity under which the monthly amount of the temporary additional benefit and the amount of the monthly benefit payable for life, respectively, shall bear the same ratio to the monthly amount of the temporary additional benefit and the monthly benefit payable for life provided under the plan, respectively, as the monthly benefit calculated pursuant to paragraph (f)(2) of this section bears to the monthly benefit calculated pursuant to paragraph (f)(1) of this section.

[61 FR 34028, July 1, 1996; 61 FR 36626, July 12, 1996]

**§ 4022.24 Benefit increases.**

(a) *Scope.* This section applies:

(1) To all benefit increases, as defined in §4022.2, payable with respect to a participant other than a substantial owner, which have been in effect for less than five years preceding the termination date; and

(2) To all benefit increases payable with respect to a substantial owner, which have been in effect for less than 30 years preceding the termination date.

(b) *General rule.* Benefit increases described in paragraph (a) of this section shall be guaranteed only to the extent provided in §4022.25 with respect to a participant other than a substantial owner and in §4022.26 with respect to a participant who is a substantial owner.

(c) *Computation of guaranteeable benefit increases.* Except as provided in paragraph (d) of this section pertaining to multiple benefit increases, the amount of a guaranteeable benefit increase shall be the amount, if any, by which the monthly benefit calculated pursuant to paragraph (c)(1) of this section (the monthly benefit provided under the terms of the plan as of the termination date, as limited by §4022.22) exceeds the monthly benefit