

**Justification
Pension Plan Reports
RRB Forms G-88p and G-88r**

1. Circumstances of information collection – Under Section 2(b) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) pays supplemental annuities (SUP ANN) to qualified RRB employee annuitants. A supplemental annuity, which is computed according to Section 3(e) of the RRA, can be paid at age 60 if the employee has at least 30 years of creditable railroad service or at age 65 if the employee has 25-29 years of railroad service. In addition to 25 years of service, a “current connection” with the railroad industry is required. Eligibility is further limited to employees who had at least one month of rail service before October 1981 and were awarded regular annuities after June 1966. And, if an employee's 65th birthday was prior to September 2, 1981, he or she must not have worked in rail service after certain closing dates (generally the last day of the month following the month in which age 65 was attained).

Under Section 2(h)(2) of the RRA, the amount of the SUP ANN is reduced if the employee receives a payment from a private railroad employer pension plan based on contributions from the employer. The payment received could be a monthly pension payment, a lumpsum in lieu of the monthly pension payment, or a lumpsum from a 401(k) Savings Plan. The employee's own contributions to his or her pension account do not cause a reduction. A private railroad employer pension is defined in 20 CFR 216.40-216.42.

Prior to January 2002, the SUP ANN was financed under 26 USC 3221 of the Internal Revenue Code. Most railroad employers paid a work hour tax to make available sufficient funds for the RRB to pay the SUP ANN. Section 26 USC 3221(c) had provided SUP ANN tax credits to employers who had established private pensions for their employees that were approved by the RRB's General Counsel.

An exception was made under 26 USC 3221(d) for employers who had employees covered under a pension plan, approved by the RRB's General Counsel, that was based on a collective bargaining (union) agreement. Instead of the work hour tax, these railroads paid a “Special Supplemental Tax” (also called SUP ANN Tax Liability) equal to the amount of SUP ANN that the RRB actually paid to their retired employees each quarter. They did not receive SUP ANN Tax Credits for the collective bargaining pension.

The Railroad Retirement and Survivor Improvement Act (RRSIA) of 2001 deleted Section 26 USC 3221 from the Internal Revenue Code. Under RRSIA, effective from January 2002, the SUP ANN is paid from the Railroad Retirement Investment Trust Account. However, Sections 2(b), 2(h)(2), and 3(e) were not changed by RRSIA or any other legislation.

2. Purposes of collecting/consequences of not collecting the information – To calculate the amount of the SUP ANN due railroad employees the RRB needs current pension information on (a) the current status of railroad employer pension plans and whether such plans cause reductions to the SUP ANN; (b) whether the employee receives monthly payments from a private railroad employer pension, elected to receive a lump sum in lieu of monthly pension payments from such a plan, or received a lump-sum distribution from a 401(k) Savings Plan; (c) the date monthly pension payments began or a lump-sum payment was received; and (d) the amount of the payments attributable to the railroad employer's contributions.

The RRB's authority for requesting the information from railroad employers is contained in 20 CFR 209.2.

Details concerning the forms currently used by the RRB to obtain this information follow:

Form G-88p, Employer's Supplemental Pension Report, is used by the RRB to obtain private pension information about an individual employee from the railroad employer. In many cases, the RRB uses the railroad employer pension information provided on the annuity application by the employee. Form G-88p is released to the appropriate railroad contact official to reconcile a discrepancy when the information provided on the annuity application does not agree with the information on the RRB's Employer Pension Table. For example, an employee states they will not receive a pension from their former railroad employer but they retire from a job category that is covered under a railroad pension plan or an employee states they received, or will receive, a distribution from a 401(k) Savings Plan that is on the RRB's Employer Pension Table. The G-88p is used to obtain the information about the distribution that is needed to calculate the reduction to the SUP ANN. If the employee is old enough to receive the SUP ANN on the annuity beginning date, the RRB releases Form G-88p to the railroad immediately. Otherwise, the RRB enters a pension entitlement code into RRB records to release Form G-88p to the railroad shortly before the month the employee attains the age requirement for the SUP ANN.

Items 1-6 of Form G-88p are completed by the RRB prior to being mailed or faxed to the railroad employer for completion. The railroad employer returns the completed form to the RRB Headquarters address is provided on the form. Headquarters then determines the amount of the SUP ANN, if any, that can be paid to the annuitant.

The RRB proposes to include items requesting information about a 401(k) Savings Plan and to remove items that are no longer needed. The changes to Form G-88p are shown below.

- Remove Item 7. The employer no longer requires this information. Service months and earnings information were provided when RRB records indicated the railroad pension paid by the employer was reduced for an RRB annuity.
- Delete current Section 2, Items 8-17b.
- Create **new Section 2, General Information for the Employer**, to provide information about the form and point the employer to Chapter 6 of the Employer Reporting Instructions on the RRB website for completion instructions and/or a copy of Form G-88p.
- Create **new Section 3, Employee Benefit Entitlement**, (**new Item 7**), which requests the employer indicate the type of pension benefit to which the employee is entitled. If the employee is entitled to:
 - o a monthly pension benefit, the railroad contact official is directed to complete **new Section 4, Employee Entitled To Monthly Pension Benefit**, (Items 8-15), and only needs to complete that section.
 - Renumber current Item 8 to Item 9 and provide 3 options for indicating how the plan is funded.
 - Renumber current Item 9 to Item 8.
 - Create **new Item 9**.
 - Renumber current Item 10 to Item 11.
 - Renumber current Item 11 to Item 14b.

- Include current Item 11b in Item 13.
- Delete current Items 11a, c and d.
- Delete current Item 12.
- Create **new Item 12**.
- Renumber current Note in current Item 13, into Item 14a
- Renumber current 14 to Item 10.
- Delete current Item 15.
- Create **new Item 15**.
- Delete current Item 16.
- Delete current Item 17.
 - o a 401(k) distribution, the railroad contact official is directed to new complete **new Section 5, Employee Entitled To Distribution From 401(k) Savings Plan, (new Items 16-19)**, and only needs to complete that section.
- neither a monthly pension nor a 401(k) distribution, the railroad contact official is directed to complete the certification information in current Item 19 renamed **“Section 7, Employer Certification By Supplemental Annuity Contact Official**.
- Rename current Item 18 to **new Section 6**.
- Minor cosmetic changes.

Form G-88r, Request for Information about New or Revised Employer Pension Plan, is used by the RRB to obtain information from a railroad employer to determine if benefits from a new or revised private pension plan will reduce the SUP ANN. The RRB releases Form G-88r to a railroad employer when it is initially determined to be a covered employer under the RRA or when information is received that indicates the railroad employer either has a private pension plan that was not previously reported to the RRB, or has updated or amended a pension plan previously approved by the RRB. The railroad can also initiate this form when necessary.

The RRB completes Items 1-3 before releasing the form to the appropriate railroad contact official. When mailed, **proposed** transmittal letter, Form RL-88r, is used.

Completion of the form is self-explanatory. However, instructions as well as a copy of the form in the Employer Reporting Instructions are available on the RRB's website. Railroad employers return the completed Form G-88r to the RRB's Office of Policy and Systems with a copy of their pension plan. Policy and Systems then submits the plan to the RRB's General Counsel who determines if the plan is a private pension that will cause a reduction to the SUP ANN.

The RRB proposes to include items requesting information about a 401(k) Savings Plan and to remove items that are no longer needed. The changes to Form G-88r are shown below.

- Create **new Section 1, Information for the Employer**, to provide information about the form and point the employer to Chapter 6 of the Employer Reporting Instructions on the RRB website for completion instructions and/or a copy of Form G-88r.
- Insert Paperwork Reduction Act Notice from second page.
- Renumber current Section 1 to Section 2 and rename.
 - o Add **new Item 4a**, which provides 3 options for indicating the type of pension plan to which the employee is entitled. This information is needed because the reduction to the SUP ANN is applied differently for a 401(k) distribution than for a monthly pension plan.

- o Renumber current Item 4 to 4b and add **new choice** “Old Plan” and remove language about enclosing a copy of the pension plan.
- o Renumber current Item 7 to Item 4c and provide a list of 5 choices to describe the employees covered by the plan. Most pension plans cover only employees in specific job categories. This information is needed to identify cases in which the information given by the employee conflicts with the information on the Employer Pension Table.
- Renumber current Item 6 to 6a and create **new Item 6b**, which requests the latest revision date of the plan if different from the date in Item 6a.
- Create **new instructions** to complete either **new Section 3** if report is about a monthly pension plan or **new Section 4**, if report is about a 401(k) savings plan.
- Split current Section 2, *Details of the Pension Plan*, into two sections - **new Section 3, Details About Monthly Pension Plan**, (Items 8-11), and **new Section 4, Details About 401(k) Savings Plan**, (Items 12-14).
- Renumber current Item 12 to Item 7 and add **new request** that if answered “No” to submit a copy of the IRS letter approving the plan when received.

New Section 3, Details About Monthly Pension Plan

- Create **new Item 8**, which asks if the plan is a “defined benefit plan” or a “defined contribution plan.” Pension benefits are calculated differently under each type of plan, which may have an impact on the reduction to the SUP ANN.
- Renumber current Item 8 to Item 9 and provide 3 options for indicating how the plan is funded. Only a plan funded entirely or partially by employer contributions will cause a reduction in the SUP ANN.
- Delete current Item 9.
- Renumber current Item 11 to Item 10 and add a **new request** that when answered “Yes” to a partial reduction, the employer enter the percentage of the reduction.
- Renumber current Item 10 to Item 11 and add a **new request** that when answered “Yes” the employer enter the percentage of the reduction. Under some railroad pension plans, the pension benefit is reduced by a percentage of the employee’s regular retirement annuity. Although rare, the reduction may cause the pension amount to be less than \$43, in which case, part of the SUP ANN would still be payable.

New Section 4, Details About 401(k) Savings Plan, Items 12-14

- Create **new Item 12**, which asks if the employer contributes to the employee’s 401(k) savings account.
- Create **new Item 13**, which asks if the employer is obligated to make contributions regardless of profit. In order for a 401(k) plan to be a private railroad pension that will cause a reduction to the SUP ANN, the employer must be obligated to contribute to the employee’s account regardless of profit under the plan. If the employer does not contribute to the employee’s account, or its contributions are discretionary, the 401(k) plan does not meet the criteria of a private pension and will not cause a reduction to the SUP ANN.
- Create **new Item 14**, which provides 3 options for indicating the type of contributions made. Under most 401(k) Savings Plans, the employer matches employee contributions. However, under other 401(k) Savings Plans, the employer annually contributes a specified amount to the employee’s account.
- Renumber current Remarks Section 3 to Section 5.
- Renumber current Certification Section 4 to new Section 6.
- Change burden from 10 minutes to 8 minutes. Due to the revisions to the form, the form’s completion has been simplified and should take less time to complete.

The RRB proposes to obsolete Form G-88r.1, Request for Additional Information About Employer Pension Plan in Case of Change of Employer Status or Termination of Pension Plan, has not been used in several years and no longer has a practical application..

To our knowledge, no other agency uses forms similar to Forms G-88p or G-88r.

3. Planned use of improved information technology or technical/legal impediments to further burden reduction – None planned due to the low volume. The forms are currently available on the RRB.gov website.
4. Efforts to identify duplication – This information collection does not duplicate any other information collection.
5. Small business respondents – N.A._
6. Consequences of less frequent collection – Not applicable. The information is requested only once for each employer pension plan or for each employee for which employer pension plan information is needed.
7. Special circumstances – None
8. Public comments/consultations outside the agency – In accordance with 5 CFR 1320.8(d), comments were invited from the public regarding this information collection. The notice to the public was published on page 58848 of the September 22, 2011, Federal Register. No comments were received from the public.
9. Payments or gifts to respondents – N.A._
10. Confidentiality – Privacy Act System of Records, RRB-22 Railroad Retirement, Survivor and Pensioner Benefit System. In accordance with OMB Circular M-03-22, a Privacy Impact Assessment for this information collection was completed and can be found at <http://www.rrb.gov/pdf/PIA/PIA-BPO.pdf>.
11. Sensitive questions – N.A._
12. Estimate of respondent burden – The current and proposed burden for the collection is as follows:

Current Burden

Form Number	Annual Responses	Time (Minutes)	Burden (Hours)
G-88p	750	8	100
G-88r	10	10	2
G-88r.I	5	7	1
Total	765		103

Proposed Burden

Form Number	Annual Responses	Time (Minutes)	Burden (Hours)
G-88p	750	8	100
G-88r	10	8	1
Total	760		101

	Responses	Hours
Total burden Change	<u>-5</u>	<u>-2</u>
Adjustment	<u>-5</u>	<u>-2</u>

13. Estimated annual cost to respondents or record keepers – N.A.
14. Estimated cost to the Federal government – N.A.
15. Explanation for changes in burden – Due to the obsolescence of Form G-88r.1, the burden response has decreased by 5 from 765 to 760 and the burden hours have decreased by 1 from 103 to 102. Also, due to the proposed revisions to Form G-88r, the form's completion has been simplified and should take less time to complete; leading to a reduction in time from 10 minutes to 8 (-2 minutes) and a reduction in burden hours from 2 to 1 (to 101).
16. Time schedule for data collection and publication – The results of this collection will not be published.
17. Request not to display OMB expiration date – The G-88p and G-88r are low usage forms that are seldom revised. Given the costs associated with redrafting, reprinting and distributing the forms in order to keep the appropriate OMB expiration date in place, the RRB requests the authority to not display the expiration date on the forms.
18. Exceptions to Certification Statement – None