

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. A private railroad employer pension is defined in 20 CFR 216.42. The payment received could be either a monthly pension payment or a lump sum pension payment. The employee's own contributions to his or her pension account do not cause a reduction.

Prior to January 1, 2014, a lump sum distribution from a 401(k) plan to which the employer was obligated to contribute also reduced the SUP ANN. However, the RRB's General Counsel reviewed the RRB's interpretation of 20 CFR 216.42 and determined that a 401(k) plan does not meet the definition of a private railroad pension (RRB Legal Opinion L-2014-2, dated January 13, 2014). Effective January 1, 2014, the RRB no longer reduces the SUP ANN for a distribution from a 401(k) plan.

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 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. However, Sections 2(b), 2(h)(2), and 3(e) of the RRA were not changed by RRSIA or any other legislation. Under RRSIA, effective from January 2002, the SUP ANN is paid from the Railroad Retirement Investment Trust Account.

2. Purposes of collecting/consequences of not collecting the information – To calculate the amount of the SUP ANN due railroad employees, the RRB needs the following current

pension information: (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 was required to receive a lump-sum from such a plan due to the plan's small benefit provision; (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 that is on the RRB's Employer Pension Table. 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 provided on the form. Headquarters then determines the amount of the SUP ANN that can be paid to the annuitant, if any.

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

- Remove the reference to 401(k) distributions from Section 2.
- Rename Section 3 title to *Employee's Pension Entitlement*.
- Reformat Item 7 from a statement to a question and delete the reference to the 401(k) savings plan. Employer now indicates whether the employee was covered under a defined pension plan or a money purchase pension plan – If "Yes," they complete Section 4; if "No," they sign the certification and return the form.
- Rename Section 4, title to *Employee's Pension Benefit Information*
- Reformat Item 10 from a statement to a question.
- Starting at current Item 13, Section 4 is divided into three **new subsections**: Monthly Pension Information; Lump Sum Elected in Lieu of a Monthly Pension; and Lump Sum Paid Under Plan's Small Benefit Provision.
 - Number new subtitle *Monthly Pension Information* to Item 13
 - o Renumber current Item 13 to 13a.
 - o Renumber current Item 15 to 13b
 - o Number current Item 15's "No" response information Item 13c

- Number new subtitle *Lump Sum Elected in Lieu of a Monthly Pension* to Item 14
 - o Create New Item 14b to correspond to proposed Item 13b
 - o Create New Item 14c to correspond to proposed Item 13c
- Number new subtitle *Lump Sum Paid Under Plan's Small Benefit Provision* to Item 15
 - o Renumber current Item 14b to 15a
 - o Create New Item 15b, to obtain the total amount of the lump sum.
 - o Create New Item 15c, to obtain the amount of the lump sum based on the employer's contributions.
- Delete Current Section 5 - Items 16-19b.
- Renumber current Section 6 to Section 5.
- Renumber current Section 7 to Section 6.
- Renumber all "Go to" items as appropriate.
- Formatting and cosmetic changes.

The RRB proposes the addition of an Internet equivalent version of Form G-88p to the information collection. The proposed Form G-88p (Internet), *Employer's Supplemental Pension Report*, will be transmitted to employers who have gained access to the RRB's Employer Reporting System (ERS).

The proposed Form G-88p (Internet) is not a form in the traditional sense but more of a process. Although it collects essentially the same information as the approved manual version, it collects the necessary information on a single screen and comes with completion instructions and the required notices and certifications.

The proposed Form G-88p (Internet) was reviewed by staff of the RRB's General Counsel and Chief Information Officer and found to be acceptable. Subsequently, the form was reviewed and approved for use (**pending OMB approval**) by the RRB's Board Members. A document titled "G-88p (Internet) Screens Description" providing details regarding content and how to navigate the screen is included in the document section of the G-88p IC documents. Also included in the ICR supplementary document section is a draft RRB Program Letter that will be released to railroad employers announcing the implementation of the Internet equivalent Form G-88p.

Note: Access to ERS is granted only to employers and their employees who have completed Form BA-12, *Application for Employer Reporting Internet Access* (3220-0008), which provides information used by the RRB to evaluate, grant, and document the level of access requested (view/only, data entry/modification or approval/submission).

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, transmittal letter, Form RL-88r, is used.

Completion of the form is self-explanatory. However, instructions, as well as a copy of the form, are in the Employer Reporting Instructions, 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 the following changes to Form G-88r:

- Remove 401(k) from Section 1.
- Rename Section 2 to *Verification of Pension Plan*.
 - Add **new Item 4**, which requests the employer to indicate if it provides a pension plan for its employees. If the employer provides a pension plan, the contact official is instructed to continue to the next item. Otherwise the contact official completes the certification and returns the form.
- Combine current Sections 2 and 3 into **new Section 3** titled *Information About the Plan*.
 - Renumber current Item 4a to Item 6; remove reference to 401(k) savings plan and "Other" choice; and give the employer two choices to indicate the type of pension plan – *Defined Benefit Plan* and *Money Purchase Plan*. Pension benefits are calculated differently under each type of plan, which may have an impact on the reduction to the SUP ANN.
 - Renumber 4b to Item 11 and add **new choice**, Closed Plan.
 - Renumber current Item 4c to Item 8.
 - Renumber current Items 6a and 6b to Items 12a and 12b, respectively.
 - Renumber current Item 7 to Item 13.
- Delete instructions above current Section 3.
 - Delete current Item 8.
 - Renumber current Item 9 to Item 7.
 - Renumber current Item 10 to Item 9.
 - Renumber current Item 11 to Item 10.
- Delete Section 4, *Details About 401(k) Savings Plan*, Items 12-14.
- Renumber current Remarks Section 5 to Section 4.
- Renumber current Certification Section 6 to Section 5.

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 – PDF versions of Form G-88p and G-88r are currently available on the RRB.gov website. The proposed Internet version provides railroad employers an electronic alternative to the paper form.
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 24762 of the May 1, 2014, 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	8	1
Total	760		101

Proposed Burden

Form Number	Annual Responses	Time (Minutes)	Burden (Hours)
G-88p	100	8	13
G-88p (Internet)	200	6	20
G-88r	10	8	1
Total	310		34

	Responses	Hours
Total burden Change	<u>-450</u>	<u>-67</u>
Program Change	-450	-67

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 –The majority of instances in which Form G-88p previously needed to be released were to obtain information about distributions from 401(k) plans. Because the RRB's General Counsel has determined that 401(k) plans do not qualify as private railroad pension plans, Form G-88p no longer needs to be released in these cases, greatly decreasing the overall number of forms that will need to be released annually from 750 to 300 (-450). In addition, we estimate that of the 300 G-88p forms, 200 will be completed using the new Internet version, which will take 6 minutes to complete compared to 8 minutes for the paper version. Overall, the amount of responses have been reduced from 760 to 310 (-450) and the burden hours from 101 to 34 (-67). We are showing the changes in burden as a program change.
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