

Justification
Pension Plan Reports
 RRB Forms G-88P, G-88P (Internet), and G-88R

1. Circumstances of information collection – Under Section 2(b) of the Railroad Retirement Act (RRA) (45 U.S.C. 231a), 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; (c) 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 no changes to Form G-88P.

Form G-88P (Internet), Employer's Supplemental Pension Report, is transmitted to employers who have been granted access to the RRB's Employer Reporting System (ERS). 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-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.

Items 1-5 of Form G-88P (Internet) are completed by the RRB prior to the form being released to the railroad employer for completion via ERS. The railroad employer then completes and submits the form to RRB headquarters via ERS. The RRB then determines the amount of the supplemental annuity that can be paid to the annuitant, if any.

The RRB proposes no changes to Form G-88P (Internet).

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 minor non-burden impacting changes to Form G-88R:

- Change P&S-RAC to P&S-CESC
- Change Fax number to (312) 751-7123-

The RRB proposes similar changes to Form RL-88R transmittal letter to correspond to the Form 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. These versions provide railroad employers an electronic alternative to the paper form. Previously proposed enhancements for the Internet version of Form G-88P have been rescheduled due to monetary constraints and competing projects. The existing Internet Form G-88P that has been in use will be retained until the RRB IT Modernization Project enhancements are completed.
4. Efforts to identify duplication – This information collection does not duplicate any other RRB information collection and to our knowledge, no other agency uses forms similar to Forms G-88P or G-88R.
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 57257 of the September 15, 2020, 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 <https://www.rrb.gov/sites/default/files/2017-06/PIA-BPO.pdf>.
11. Sensitive questions – N.A._
12. Estimate of respondent burden – The current burden for the collection is as follows:

Current Burden

Form Number	Annual	Time (Minutes) ^{1/}	Burden (Hours)
G-88P	100	8	13
G-88P (Internet)	200	6	20
G-88R	10	8	1
Total	310		34

1/The RRB has been collecting the information on these forms since OMB approved the information collection. Based on a sampling done when the form was originally created, the office calculated the estimated time, which includes time for getting the needed data and reviewing the completed form.

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 – N.A.
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 RRB started an extensive multi-year IT Modernization Initiative at the beginning of Fiscal Year 2019 to transform our operations into the 21st Century using multiple contractor services to improve mission performance, expand service capabilities, and strengthen cybersecurity. In addition, we received a new Chief Information Officer (CIO) on September 2, 2019 who is reviewing our estimated project timeline milestone dates. We provided OMB with a consolidated project timeline.

Given that the forms in this collection are seldom revised; the costs associated with redrafting, reprinting, and distributing forms in order to keep the appropriate OMB

expiration date in place; and our desire to reevaluate after the completion of the modernization project, **the RRB requests the authority to not display the expiration date on the forms**

18. Exceptions to Certification Statement – None