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the designated survivor base which exceeds $3600.

[55 FR 9101, Mar. 12, 1990, as amended at 56 FR 16263, Apr. 22, 1991; 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

§ 831.632 Post-retirement election of fully reduced annuity or partially reduced annuity to provide a former spouse annuity.

(a)(1) Except as provided in paragraphs (b) and (c) of this section, when the marriage of a retiree who retired on or after May 7, 1985, terminates after retirement, he or she may elect in writing a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity. Such an election must be filed with OPM within 2 years after the retiree's marriage to the former spouse terminates.

(2) Except as provided in paragraphs (b) and (c) of this section, a retiree who retired before May 7, 1985, and whose marriage was terminated on or after May 7, 1985, may elect in writing a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity if the retiree while married to the former spouse had elected, prior to May 7, 1985, a reduced annuity to provide a current spouse annuity for that spouse. Such an election must be filed with OPM within 2 years after the retiree's marriage to the former spouse terminates.

(3) Except as provided in paragraphs (b) and (c) of this section, a retiree who retired on or after May 7, 1985, and before February 27, 1986, and whose marriage terminated before May 7, 1985, may elect in writing a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity. Such an election must be made no later than February 27, 1988.

(b)(1) Qualifying court orders prevent payment of former spouse annuities to the extent necessary to comply with the court order and § 831.641.

(2) A retiree who elects a fully or partially reduced annuity to provide a former spouse annuity may not elect to provide a former spouse annuity in an amount that either—

(i) Is smaller than the amount required by a qualifying court order; or

(ii) Would cause the sum of all current and former spouse annuities based on a retiree's elections under §§ 831.611, 831.612, 831.631 and this section to exceed 55 percent of the rate of the retiree's self-only annuity if the retiree's retirement was based on a separation from a position under CSRS on or after October 11, 1962, or 50 percent of the rate of the retiree's self-only annuity if the retiree's retirement was based on a separation from a position under CSRS before October 11, 1962.

(3) An election under this section is void—

(i) In the case of a married retiree, if the current spouse does not consent to the election on a form as described in § 831.614(c) and spousal consent is not waived by OPM in accordance with § 831.618; or

(ii) To the extent that it provides a former spouse annuity for the spouse who was married to the retiree at the time of retirement in an amount that is inconsistent with any joint designation or waiver made at the time of retirement under § 831.611 (a)(1) or (a)(2); or

(iii) In the case of an election under paragraph (a)(2) of this section, to the extent that it provides a former spouse annuity that exceeds the proportion of the retiree's annuity to which the former spouse would have been entitled as a current spouse annuity as of May 7, 1985.

(c) An election under this section is not permitted unless the retiree agrees to deposit the amount equal to the difference between the amount of annuity actually paid to the retiree and the amount of annuity that would have been paid if the reduction elected under paragraph (a) of this section had been in effect continuously since the time of retirement, plus 6 percent annual interest, computed under § 831.105, from the date when each difference occurred.

(d) Any reduction in an annuity to provide a former spouse annuity will terminate on the first day of the month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

(1) The retiree elects, within 2 years after the event causing the former spouse to lose eligibility, to continue the reduction to provide or increase a former spouse annuity for another former spouse, or to provide or increase a current spouse annuity; or

(2) A qualifying court order requires the retiree to provide another former spouse annuity.

(e)(1) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section equals 2½ percent of the first $3600 of the total designated survivor base plus 10 percent of the portion of the total designated survivor base which exceeds $3600, if—

(i) The employee's or Member's separation on which the retirement is based was on or after October 11, 1962; or

(ii) The reduction is to provide a former spouse annuity (under § 831.632) for a former spouse whom the employee or Member married after retirement.

(2) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section for employees or Members whose retirement is based on separations before October 11, 1962, equals 2½ percent of the first $2400 of the total designated survivor base plus 10 percent of the portion of the total designated survivor base which exceeds $2400.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31932, Sept. 8, 1986; 52 FR 3209, Feb. 3, 1987; 55 FR 9100, Mar. 12, 1990; 56 FR 16262, Apr. 22, 1991; 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

ELIGIBILITY

§ 831.641 Division of a survivor annuity.

(a) Except as provided in §§ 831.682 and 831.683, the maximum combined total of all current and former spouse annuities (not including any benefits based on an election of an insurable interest annuity) payable based on the service of a former employee or Member equals 55 percent (or 50 percent if based on a separation before October 11, 1962) of the rate of the self-only annuity that otherwise would have been paid to the employee, Member, or retiree.

(b) By using the elections available under this subpart or to comply with a court order under subpart Q, a survivor annuity may be divided into a combination of former spouse annuities and a current spouse annuity so long as the aggregate total of current and former spouse annuities does not exceed the maximum limitation in paragraph (a) of this section.

(c) Upon termination of former spouse annuity payments because of death or remarriage of the former spouse, or by operation of a court order, the current spouse will be entitled to a current spouse annuity or an increased current spouse annuity if—

(1) The employee or Member died while employed in a position covered under CSRS; or

(2) The current spouse was married to the employee or Member continuously from the time of retirement and did not consent to an election not to provide a current spouse annuity; or

(3) The current spouse married a retiree after retirement and the retiree elected, under § 831.631, to provide a current spouse annuity for that spouse in the event that the former spouse annuity payments terminate.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31933, Sept. 8, 1986; 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52282, Oct. 13, 1993]

§ 831.642 Marriage duration requirements.

(a) The surviving spouse of a retiree who retired on or after May 7, 1985, or of a retiree who retired before May 7, 1985, but married that surviving spouse on or after November 8, 1984, or of an employee or Member who dies while serving in a position covered by CSRS on or after May 7, 1985, or of an employee or Member who died while serving in a position covered by CSRS before May 7, 1985, but married that surviving spouse on or after November 8, 1984, can qualify for a current spouse annuity only if—

(1) The surviving spouse and the employee, Member, or retiree had been