

Digest

Chicago 11, Illinois

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The Director of Retirement Claims

The Associate General Counsel

L 52 360

M-113

Question on the 1951 Amendments

The answer to the question in your memorandum of May 5, 1952, is as follows:

Question: We have a case in which an employee who had been receiving a joint and survivor annuity died on December 29, 1951 after having filed on December 20, 1951 a revocation of his election of such annuity. Since the annuitant died before the date on which the increase in his annuity could have become effective, the question is presented as to whether the surviving spouse is entitled to receive the survivor annuity which was provided by the election.

Answer: Section 25(f) of Public Law 234, 82nd Congress, in permitting an employee or an annuitant to revoke his election of a joint-and-survivor annuity, does not spell out when the revocation shall be effective except to provide that the "increased annuity" resulting from the revocation "shall . . . begin to accrue on the first of the calendar month in which the election is revoked". It appears, therefore, that the revocation would not be at all operative to provide any benefit before the first of the month following that in which notice of any revocation is given to the Board. In view of this, and since the obvious purpose of the revocation provision is to provide the annuitant with some relief from the effect of his election, of which there would be none when the annuitant dies in the month of filing the revocation, it is my opinion that the revocation should not be regarded as having any effect in such a case on the otherwise existing rights of the surviving spouse.

David B. Schreiber
Associate General Counsel

CC: Director of Research

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