

FEB 23 1961

161-89

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Dear Mr. Gabbert:

The answers to the two questions presented in your letter of February 15, 1961, are as follows:

1. This question, since it relates to "social security taxes" and the completion of income tax forms, should be referred, for an authoritative answer, to the Internal Revenue Service, which administers the social security, and the income, tax systems.

2. A railroad worker who has ten or more years of railroad service credit can draw a railroad retirement annuity, when otherwise qualified, independently of any benefits to which he is entitled under the social security system. His wife, too, can obtain, while he is alive, a wife's annuity (upon qualification otherwise) based on his railroad service, without regard to what she may receive as a wife, on her husband's employment under the social security system. Upon the worker's death his widow and his survivors, however, will receive monthly benefits for which they are eligible under one system or the other, but not both, with the benefits under the paying system being based on the worker's employment credits under the two systems as if all these credits were earned under the paying system. If the worker has a "current connection with the railroad industry" at his death, his survivors' benefits will be paid under the railroad retirement system. If he does not have this "connection", the benefits to survivors will be paid under the social security system, except that, in either case, section 5(f)(2) of the Railroad Retirement Act will provide a lump-sum benefit, equal to somewhat more than the railroad retirement taxes the employee will have paid, less the sum of the benefits paid under either system to the worker and his wife, and to his survivors after his death, which take account of his railroad employment, will be paid to the worker's designated beneficiary, other survivor, or estate.

Very truly yours,

David B. Schreiber
Associate General Counsel

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