

otherwise specified) by Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

## § 7447A. Retirement for special trial judges

### (a) In general

#### (1) Retirement

Any special trial judge appointed pursuant to section 7443A may retire from service as a special trial judge if the individual meets the age and service requirements set forth in the following table:

If the special trial judge has attained age:	And the years of service as a special trial judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10.

#### (2) Length of service

In making any determination of length of service as a special trial judge there shall be included all periods (whether or not consecutive) during which an individual served as a special trial judge

#### (b) Retirement upon disability

Any special trial judge appointed pursuant to section 7443A who becomes permanently disabled from performing such individual's duties shall retire from service as a special trial judge.

#### (c) Recalling of retired special trial judges

Any individual who has retired pursuant to subsection (a) may be called upon by the chief judge to perform such judicial duties with the Tax Court as may be requested of such individual for a period or periods specified by the chief judge, except that in the case of any such individual—

(1) the aggregate of such periods in any 1 calendar year shall not (without the consent of such individual) exceed 90 calendar days, and

(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a special trial judge. Any individual who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a special trial judge.

#### (d) Retired pay

##### (1) In general

Any individual who retires pursuant to subsection (a) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period of retirement from service as a special trial judge at a rate which bears the same ratio to the rate of the salary payable to a special trial judge during such period as—

(A) the number of years such individual has served as special trial judge bears to,

(B) 15,

except that the rate of such retired pay shall not be more than the rate of such salary for such period.

#### (2) Retirement upon disability

Any individual who retires pursuant to subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period of retirement from service as a special trial judge—

(A) at a rate equal to the rate of the salary payable to a special trial judge during such period, if the individual had at least 10 years of service as a special trial judge before retirement, and

(B) at a rate equal to  $\frac{1}{2}$  the rate described in subparagraph (A), if the individual had fewer than 10 years of service as a special trial judge before retirement.

#### (3) Beginning date and payment

Retired pay under this subsection shall begin to accrue on the day following the date on which the individual's salary as a special trial judge ceases to accrue, and shall continue to accrue during the remainder of such individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a special trial judge.

#### (4) Partial years

In computing the rate of the retired pay for an individual to whom paragraph (1) applies, any portion of the aggregate number of years such individual has served as a special trial judge which is a fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if it is 6 months or more.

#### (5) Recalled service

In computing the rate of the retired pay for an individual to whom paragraph (1) applies, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which such individual has served as a special trial judge.

**(e) Election to Receive Retired Pay**

Any special trial judge may elect to receive retired pay under subsection (d). Such an election—

(1) may be made only while an individual is a special trial judge (except that in the case of an individual who fails to be reappointed as a special trial judge, such election may be made within 60 days after such individual leaves office as a special trial judge),

(2) once made, shall be irrevocable, and

(3) shall be made by filing notice thereof in writing with the chief judge.

The chief judge shall transmit to the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

**(f) Other rules made applicable**

The rules of subsections (f), (g), (h)(2), (i), and (j), and the first sentence of subsection (h)(1), of section 7447 shall apply to a special trial judge in the same manner as a judge of the Tax Court. For purposes of the preceding sentence, any reference to the President in such subsections shall be applied as if it were a reference to the chief judge.

(Added Pub. L. 117-328, div. T, title VII, § 702(a), Dec. 29, 2022, 136 Stat. 5402.)

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Pub. L. 117-328, div. T, title VII, § 702(d), Dec. 29, 2022, 136 Stat. 5404, provided that: “The amendments made by this section [enacting this section and amending sections 3121 and 7448 of this title and section 410 of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Dec. 29, 2022], except that section 7447A(e) of the Internal Revenue Code of 1986 (as added by this section) shall take effect on the date that is 180 days after such date of enactment. Special trial judges retiring on or after the date of the enactment of this Act, and before the date that is 180 days after the date of such enactment, may file an election under such section not later than 60 days after such date.”

**§ 7448. Annuities to surviving spouses and dependent children of judges and special trial judges****(a) Definitions**

For purposes of this section—

(1) The term “Tax Court” means the United States Tax Court.

(2) The term “judge” means the chief judge or a judge of the Tax Court, including any individual receiving retired pay (or compensation in lieu of retired pay) under section 7447 whether or not performing judicial duties pursuant to section 7447(c).

(3) The term “chief judge” means the chief judge of the Tax Court.

(4) The term “judge’s salary” means the salary of a judge received under section 7443(c), retired pay received under section 7447(d), and compensation (in lieu of retired pay) received under section 7447(c).

(5) The term “special trial judge” means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under chapter 83 or 84 of title 5, United States Code.

(6) The term “special trial judge’s salary” means the salary of a special trial judge received under section 7443A(d), any amount received as an annuity under chapter 83 or 84 of title 5, United States Code.

(7) The term “survivors annuity fund” means the Tax Court judges survivors annuity fund established by this section.

(8) The term “surviving spouse” means a surviving spouse of an individual, who either (A) shall have been married to such individual for at least 2 years immediately preceding his death or (B) is a parent of issue by such marriage, and who has not remarried.

(9) The term “dependent child” means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of 18 years or who because of physical or mental disability is incapable of self-support.

(10) The terms “assassinated” and “assassination” mean the killing of a judge or special trial judge that is motivated by the performance by the judge or special trial judge of his or her official duties.

**(b) Election****(1) Judges**

Any judge may by written election filed while he is a judge (except that in the case of an individual who is not reappointed following expiration of his term of office, it may be made at any time before the day after the day on which his successor takes office) bring himself within the purview of this section. In the case of any judge other than the chief judge the election shall be filed with the chief judge; in the case of the chief judge the election shall be filed as prescribed by the Tax Court.

**(2) Special trial judges**

Any special trial judge may by written election filed with the chief judge elect the application of this section. Such election shall be filed while such individual is a special trial judge.

**(c) Survivors annuity fund****(1) Salary deductions**

There shall be deducted and withheld from the salary of each judge or special trial judge electing under subsection (b) a sum equal to 3.5 percent of such judge’s or special trial judge’s salary. The amounts so deducted and withheld from such judge’s or special trial judge’s salary shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of a fund to be known as the “Tax Court judicial officers survivors annuity fund” and said fund is appropriated for the payment of annuities, refunds, and allowances as provided by this section. Each judge or special trial judge electing under subsection (b) shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge or special trial judge during the period