

former spouse of the participant. The participant and the participant's spouse may make an election under section 2031(b)(1)(B) of this title before the time of retirement for the purpose of allowing an election to be made under this section.

**(d) Reduction in participant's annuity**

**(1) Computation**

The amount of the reduction in the participant's annuity shall be determined in accordance with section 2031(b)(2) of this title.

**(2) Effective date of reduction**

Such reduction shall be effective as of—

(A) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1); or

(B) November 15, 1982, in the case of an election under subsection (b)(2).

(Pub. L. 88-643, title II, §223, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3216.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 223 of Pub. L. 88-643, as added Pub. L. 97-269, title VI, §607, Sept. 27, 1982, 96 Stat. 1151; amended Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622, related to election of survivor benefits for certain former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

**§ 2034. Survivor annuity for certain other former spouses**

**(a) Survivor annuity**

**(1) In general**

An individual who was a former spouse of a participant or retired participant on November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's or retired participant's annuity, as computed under section 2031(a) of this title; or

(B) the unreduced amount of what such annuity as so computed would be if the participant, former participant, or retired participant had not elected payment of the lump-sum credit under section 2143 of this title.

**(2) Reduction in survivor annuity**

A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former spouse under section 2033 of this title.

**(b) Limitations**

A former spouse is not entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55, except that the entitlement of the former

spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(2) the former spouse is less than 50 years of age.

**(c) Commencement and termination of annuity**

**(1) Commencement of annuity**

The entitlement of a former spouse to a survivor annuity under this section shall commence—

(A) in the case of a former spouse of a participant or retired participant who is deceased as of October 1, 1986, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former spouse reaches age 50; and

(B) in the case of any other former spouse, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former spouse was married dies;

(ii) the 60th day after October 1, 1986; or

(iii) the date on which the former spouse attains age 50.

**(2) Termination of annuity**

The entitlement of a former spouse to a survivor annuity under this section terminates on the last day of the month before the former spouse's death or remarriage before attaining age 55. The entitlement of a former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

**(d) Application**

**(1) Time limit; waiver**

A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than April 1, 1989. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

**(2) Retroactive benefits**

Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1986.

**(e) Restoration of annuity**

Notwithstanding subsection (d)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(2).

(Pub. L. 88-643, title II, §224, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat.

3217; amended Pub. L. 103-178, title II, §202(a)(6), Dec. 3, 1993, 107 Stat. 2026.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 224 of Pub. L. 88-643, as added Pub. L. 99-569, title III, §302(a), Oct. 27, 1986, 100 Stat. 3192; amended Pub. L. 100-453, title III, §302(b)(1), Sept. 29, 1988, 102 Stat. 1907; Pub. L. 101-193, title III, §304(a), Nov. 30, 1989, 103 Stat. 1703; Pub. L. 102-88, title III, §307(a), Aug. 14, 1991, 105 Stat. 432; Pub. L. 102-183, title III, §304, Dec. 4, 1991, 105 Stat. 1264, related to survivor annuities for certain other former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

##### AMENDMENTS

1993—Subsec. (c)(1)(B)(i). Pub. L. 103-178 substituted “retired participant” for “former participant”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103-178, set out as a note under section 2001 of this title.

##### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

### § 2035. Retirement annuity for certain former spouses

#### (a) Retirement annuity

An individual who was a former spouse of a participant, former participant, or retired participant on November 15, 1982, and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

#### (b) Limitations

A former spouse is not entitled to an annuity under this section if—

(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(2) the former spouse is less than 50 years of age.

#### (c) Commencement and termination

##### (1) Retirement annuities

The entitlement of a former spouse to an annuity under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under this subchapter;

(ii) the first day of the month in which the divorce or annulment involved becomes final; or

(iii) such former spouse's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

#### (2) Disability annuities

Notwithstanding paragraph (1)(A)(i), in the case of a former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this subchapter (other than disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

#### (3) Election of benefits

A former spouse of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity payable from the fund unless the former spouse elects to receive it instead of any survivor annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

#### (4) Application

##### (A) Time limit; waiver

An annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, not later than June 2, 1990. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

##### (B) Retroactive benefits

Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before December 2, 1987.

#### (d) Restoration of annuities

Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply