

# **Survivor Annuities - Plans Terminated before August 23, 1984**

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## **A. Scope**

### **1. Plans Covered**

This internal guidance applies to PBGC-trusted plans that terminated prior to August 23, 1984.

### **2. Participants Covered**

This internal guidance applies to any vested participant in a covered plan who:

- a. separates from service with the DOPT employer on or after the participant's earliest eligibility age for payment of a benefit under the plan and PBGC rules<sup>1</sup>; **and**

**Note 1:** As originally issued on 02/10/88, this internal guidance required that the participant's separation from service have occurred after DOPT. This was an error; the separation may occur prior to DOPT.

- b. dies after DOPT but before beginning to receive benefit payments; **and**
- c. dies on and after October 22, 1986 (see exception below for some deaths prior to October 22, 1986); **and**
- d. has a benefit payable in the form of a joint-and-survivor annuity at the time of his or her death<sup>2</sup>; **and**

**Note 2:** For participant deaths occurring on or after October 22, 1986, a participant in an ERISAfied plan has a benefit payable in the form of a joint-and-survivor annuity if he or she was married on the date of death. See PBGC Internal Guidance Annuity Benefit Forms for rules on payment of joint-and-survivor annuities.

- e. has a benefit the entire value of which is not paid by the PBGC in a lump-sum.

### **Deaths Prior to October 22, 1986**

This internal guidance also will be applied to any participant in an ERISAfied plan whose death occurred before October 22, 1986, if the participant's surviving spouse appeals or informally requests review of the PBGC's determination that a survivor annuity was not payable **and** if the participant met requirements (a), (b), (d)<sup>3</sup> and (e), above.

**Note 3:** For participant deaths occurring on or after October 22, 1986, a participant in an ERISAfied plan has a benefit payable in the form of a joint-and-survivor annuity if the participant was married on DOPT or had elected an optional form of joint-and-survivor annuity prior to DOPT.

## **B. Internal Guidance**

### **1. Introduction**

The PBGC's internal guidance on payment of survivor benefits has been revised to provide a survivor annuity under the limited circumstances in which the participant survives to earliest eligibility age for payment of a benefit, then separates from service, and later dies without having retired but, on the date of death, has a benefit payable in the form of a joint-and-survivor annuity. This internal guidance is only applicable to plans that terminated prior to the enactment of REA (08/23/84); for plans terminating after that date, the PBGC will offer preretirement survivor annuities, which provide broader spousal protection. (See PBGC Internal Guidance QPSAs in Plans Terminating on and after 08/23/84 for a description of the preretirement survivor annuity internal guidance.)

## **2. General Rule**

The PBGC will pay a survivor annuity to the surviving spouse (i.e., the spouse on the date of the participant's death) of a participant covered by this internal guidance.

### **a. Amount of the Benefit**

The surviving spouse's benefit will be equal to the survivor portion of the joint-and-survivor annuity that would have been payable had the participant applied for a benefit on the date of his or her death.

### **b. Annuity Starting Date**

The annuity starting date<sup>4</sup> for the surviving spouse's benefit is the first day of the month following the month in which the participant's death occurred, even if the surviving spouse's application is not filed until a later date. The surviving spouse may not defer the starting date of this benefit.

**Note 4:** The annuity starting date as of which benefit payments are first made to a participant or beneficiary.

## **3. Relationship of this internal guidance to other internal guidance**

### **a. Retroactive Payment of Early Retirement Benefits**

If the participant was eligible for a benefit under the retroactive payment internal guidance, the benefit will be paid under the retroactive payment internal guidance. Under the retroactive payment internal guidance, there may be a payment to the participant's estate in addition to a survivor benefit.

### **b. Preretirement Survivor Annuities**

A surviving spouse benefit will not be paid under this internal guidance to any participant in a plan that terminates on or after August 23, 1984.

### **c. Payment of Joint-and-Survivor Annuities**

Entitlement to and amount of a joint-and-survivor annuity under this internal guidance will be determined in accordance with the internal guidance on payment of joint-and-survivor annuities in cases involving participant deaths occurring on and after October 22, 1986. (For deaths occurring prior to October 22, 1986, see note <sup>3</sup>.)