

Division of Federal Employees' Compensation (DFEC)

Death Gratuity Page

Amendment to the Federal Employees' Compensation Act, 5 U.S.C. § 8102a – Death Gratuity

NEW!

- ← **BENEFIT** This new provision creates a death gratuity for federal employees (and employees of non-appropriated fund instrumentalities) by authorizing the United States to pay up to \$100,000 to the survivors of "an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation." On January 28, 2008, the Federal Employees' Compensation Act (FECA) was amended by adding a new section 8102a (5 U.S.C. § 8102a - Death Gratuity). This provision creates a death gratuity for federal employees (and employees of nonappropriated fund instrumentalities) by authorizing the United States to pay up to \$100,000 to the survivors of "an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation." The \$100,000 amount must by law be reduced and offset by any other federally provided death gratuity.
- ← **BENEFICIARIES** Unlike other death gratuities, this death gratuity was placed within FECA and is administered by the Department of Labor's Office of Workers' Compensation Programs (OWCP) as part of the FECA program. This one-time death gratuity is to be disbursed to the survivors of the employee in a specific, and somewhat complicated, order of precedence set forth in the statute. It is important to note that these beneficiary stipulations are unique to this new statutory provision, and no previously existing DOL rules or guidelines cover these circumstances.
- ← **No designation is necessary if an employee wishes the death gratuity to be distributed in accordance with the order of precedence set out in section 8102a; although the statutory order of precedence is extensive, the legal spouse of an employee at the time of death will receive 100% of the benefit payable unless an alternate beneficiary is designated on the CA-40. If the employee has no legal spouse and a CA-40 is not completed, the employee's children share the available benefit. The statutory order of precedence thereafter is to other specified family members.**
- ← **ALTERNATE DESIGNATIONS** We recommend that any time a Federal employee is deployed overseas or otherwise assigned to provide service to an Armed Force in a contingency operation, as defined in this provision, he or she be informed of this death gratuity and be given the opportunity to complete on the CA 40 form if desired. Employees already so assigned should also be given this opportunity. An employee desiring to designate one or more alternate beneficiaries of a death gratuity payable under this provision must complete and sign a copy of this form, and give the original to his or her employer to be completed and maintained by the employer in the employee's official personnel file, or a related system of records, in case it is needed in future. The employee should retain a copy of the completed form.
- ← **RECENT CHANGES TO DESIGNATIONS AND REQUIRED AGENCY NOTIFICATIONS** On December 31, 2011, Congress amended 5 U.S.C. § 8102a, the law authorizing death gratuities under FECA, by Section 1121 of Public Law 112-81. (See text of amendment below). Pursuant to that amendment, federal employees may now designate the entire FECA death gratuity to an alternate beneficiary (previously, this designation was limited to 50% of the FECA death gratuity). Effective December 31, 2011, the employing agency is required to notify the federal

employee's spouse, if one exists, if that employee designates a person other than the spouse to receive all or a portion of the FECA death gratuity. These changes took effect on enactment. Form CA-40 will be updated to reflect that change; until that time, the current form may still be used with the caveat that instructions on that form limiting the designation to 50% should be disregarded.

- ← For information regarding other aspects of the FECA death gratuity, please see Subpart J of the current regulations at http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=31125e0d9dbc9edf2fd1eebff9c2e0b6&tpl=/ecfrbrowse/Title20/20cfr10_main_02.tpl.

Text of New Amendment included in the Defense Authorization FY 2012:

SEC. 1121. MODIFICATION OF BENEFICIARY DESIGNATION AUTHORITIES FOR DEATH GRATUITY PAYABLE UPON DEATH OF A UNITED STATES GOVERNMENT EMPLOYEE IN SERVICE WITH THE ARMED FORCES.

(a) AUTHORITY TO DESIGNATE MORE THAN 50 PERCENT OF DEATH GRATUITY TO UNRELATED PERSONS. -

(1) IN GENERAL. - Paragraph (4) of section 8102a(d) of title 5, United States Code, is amended -

(A) by striking the first sentence and inserting "A person covered by this section may designate another person to receive an amount payable under this section."; and

(B) in the second sentence, by striking "up to the maximum of 50 percent".

(2) EFFECTIVE DATE. - The amendments made by this subsection shall take effect on the date of enactment of this Act and apply to the payment of a death gratuity based on any death occurring on or after that date.

(b) NOTICE TO SPOUSE OF DESIGNATION OF ANOTHER PERSON TO RECEIVE PORTION OF DEATH GRATUITY. - Section 8102a(d) of such title is further amended by adding at the end the following:

"(6) If a person covered by this section has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under this section, the head of the agency, or other entity, in which that person is employed shall provide notice of the designation to the spouse."