

These are the emails we have received since the last posting along with our answers to them. When we update the emails, the old ones are transferred to "Archives" which is under the "Archives" button at the top of the home page.

### Contact Question –

*I hope you can help clarify the health benefits sign-up for me. I am a part of the early retirement group in 1997. as I know you are. I have chosen the DPMP in the years since I retired. I understand that Delta may try to make changes in 2006, through the courts. As I understand it, NOW, as we begin this sign-up period, nothing is changed for the 500 early retirees. Here is my question. If I DO NOT sign up for anything, will my default coverage be the same as it has been in the past? If I DO need to sign up for something, what would it be? I feel like I'm missing something. Is it as simple as it should be or is there some trap hidden in the legaleeze?*

### DP3 Answer:

Here is the situation. Delta would like to make changes to the DPMP, but would like to do so without having to negotiate these changes.

The company contends that the anticipated changes are insignificant and do not warrant Section 1114 negotiations and has asked the court for a ruling. DP3 contends that any changes to the plan require a Section 1114 hearing and we have petitioned the bankruptcy court to allow DP3 to represent the interest of retired pilots.

The court will ultimately make a decision in the matter and we think it is pretty clear they will rule that Delta has to negotiate any changes. In the meantime Delta has gone ahead with the 2006 enrollment. I suggest that you go ahead and select the DPMP and then we will deal with whatever situation develops as a result of the bankruptcy court's ruling. We understand they plan some pretty significant changes in the future.

### Contact Question –

*If, as I've been reading, you are attempting to make non-qualified benefits whole for those on LTD, you should think again...reducing that fund at the expense of my survivors is not something I will look kindly on...*

### DP3 Answer:

Your question deserves a thoughtful and respectful answer. Both personally, and in concert with the DP3 Board of Trustees, the answer is an easy one to give because it is principled and blind to pressures from the many varied special interests within our membership.

You may have read the following on our DP3 web site or in one of our email messages:

### **Our Mission Statement**

*To work to preserve the earned pensions, health insurance and other benefits paid by Delta Air Lines to retired Delta pilots, their dependants and survivors.*

The DP3 Board of Trustees recognizes that there are many differences between subgroups in our retired pilot and survivor universe. We have taken the unequivocal position, as expressed in our mission statement above, that we will represent all to the best of our ability and not pick and choose among them – since all have earned their pension,

health insurance, disability and survivor benefits because of their employment at Delta Air Lines.

How could we (or Solomon) choose to favor or exclude any of the following groups? Early retirees; age-60 retirees; pre-petition surviving spouses; post-petition widows; pilots who received a lump sum; pilots who did not receive a lump sum; pilots who received non-qualified pension payments; pilots who only receive qualified pension payments; LTD pilots receiving pension benefits; PRPs; former Western pilots; former PanAm pilots; original Delta pilots; pre-1997 retirees; the 1996-97 505 early retirees, and any others that might later come to mind.

We believe that the only way a group like DP3 can be credible and respected is to respond to the issues as they are presented, wherever the impact may be felt.

As to the LTD pilots who have lost a part of their contractually provided benefit – plan language is very clear on this – we are as obligated to defend them as we are the other pilots who also lost their non-qualified benefits Oct. 1. The group to which you refer (and others have called scumbags!) includes widows who also suffered a reduction in their monthly income as a result of Delta's unilateral and improper action. What makes this group any more or less worthy than any other?

DP3 believes that the D&S plan is likely to be a major battleground in bankruptcy since Delta can taste the \$1 billion-plus it sees as ripe for the taking. Their proposal to ALPA illustrates this vividly. What is more disturbing, however, is ALPA's response which goes even farther than Delta's proposal, including, for example, a willingness to consider substituting a \$500,000 life insurance policy in the future in lieu of the current survivor benefit. And worse than that, ALPA--not Delta--has proposed to retroactively change the eligibility requirements for those now on disability and to also seek to codify the very thing Delta is doing in not recalculating the offset for retired/LTD pilots. It is one thing to propose a change for some future date, but we don't expect of our union to reach back and make changes to the disadvantage of current vulnerable retirees and widows.

Let's be clear on this – DP3 is not in any way whatsoever a party to these negotiations between Delta and ALPA. To the contrary, we are as disturbed and shocked as you are.

DP3's position is that Delta has improperly changed the terms of the working agreement to deny retired LTD pilots a benefit that is clearly spelled out for them. We have asked Delta to rectify this and re-compute the offset and resume the payments to which these pilots and widows are entitled.

Just as DP3 filed a motion to compel Delta to pay the non-qualified pension payments and the funding that is contractually required into the pension plan, we have again responded to Delta's action. DP3 did not pick these fights--Delta did--and we are doing what we promised to do, and that is to defend the earned retirement benefits of ALL retired Delta pilots, their dependants and survivors.

Similarly, we will act in whatever way necessary to mitigate future changes to the retired pilots' medical plan and the qualified pension plan when Delta unveils its likely effort to severely modify and/or terminate them. We will also continue to oppose any retroactive changes or adverse prospective changes to the D&S plan as they become known.

DP3 regards your survivors and those to whom a current benefit is due as both having an earned, legitimate contractual claim on the D&S plan. I know there is a negative perception

of some retirees who may be drawing the pension/LTD benefit, but that cannot and should not enter into our response to Delta's action.

Delta's decision to cease the NQ payments has had broad repercussions in our lives. The impact on the D&S plan is just one. DP3 would find it impossible to choose among the beneficiaries as to their perceived worthiness and how much consideration they should receive as we defend against Delta's money grab. Should we limit our efforts on the NQ payments only to those who flew no more than two green slips in their last 18 months or had lump sums under \$650,000?

Unfortunately, this bankruptcy has proved that we cannot pick our fights; they come to us. What lies ahead is going to be even more ugly. I can assure you, though, that DP3 will do its absolute best to represent every retired Delta pilot and survivor as aggressively as we can. As I have said before, we can't achieve a total victory since that doesn't exist for us in this process. What victories we may achieve will be small, but very important in delaying or mitigating the changes that Delta will seek.

DP3 is the only group that is publicly and visibly defending the rights of retired Delta pilots. I believe that we are doing so honorably and with great personal sacrifice by the volunteer Board of Trustees. We are proud of the integrity with which we have undertaken to be good stewards of your trust. We hope that you and the 2,600 other DP3 members will continue to judge us against the high and clear standards of our mission statement

Thank you again for your support and concern.

#### **Contact Question –**

*I Have two Questions. Is it possible for The PBGC to come after our lumps and will we have any notice that that is about to happen? Will we be able to get back the taxes we paid in our last check before retirement that was the prepayment for future earnings on the non-qualified payments*

#### **DP3 Answer:**

#### **Answer to Question #1: Can the PBGC recover my lump sum?**

The PBGC has stated that although they have the authority to recover lump sum distributions, they have never done so in cases that did not involve anticipation of bankruptcy. Does that mean that the PBGC will not do so in the future in recognition of the huge liabilities they now face? I don't know? Does that mean that they will determine that early retirement is in anticipation of bankruptcy? I don't know.

Even if the lump sum is not subjected to recovery, it is included in calculations that govern the PC3 benefit for individuals who retired less than three years prior to the date that the plan is terminated. The only significance of three years is that it is the "look back" period that the PBGC applies in determining PC3. If an individual has been retired more than 3 years, it is easy to determine the qualified benefit to which he was entitled 3 years prior to plan termination (the qualified benefit he was receiving 3 years prior). However, if the 3 year look back extends to pre-retirement years, there is a necessary calculation of the qualified benefit to which the individual was entitled at that time. The calculation of that retirement benefit will be for a date prior to the lump sum distribution. Therefore, the subsequent lump sum distribution has to be considered in the final calculation of PC3.

For a better understanding of PBGC procedures, visit the DP3 website at [www.dp3.org](http://www.dp3.org) and read the FAQ.

## **Answer to Question #2: Can we recover FICA taxes withheld from our last check?**

The final pay check from Delta typically reflects a deduction for FICA and Medicare based upon the imputed income of the future stream of non-qualified benefits. If the annual FICA maximum already has met at the time the pilot retires, the FICA deduction is nil. However, there is not a limitation on Medicare taxes; therefore, the pilot will pay 1.45% on the imputed present value of anticipated future non-qualified benefits over his or her expected life span. In my opinion, the Sept 1st retirees have a good argument for recovering the Medicare tax on benefits that they will never receive. Pilots who retired in 2005 may be able to reduce the Medicare taxes (and FICA if applicable) to reflect only non-qualified benefits that were received prior to termination of non-qualified benefits.

Delta could easily reverse Medicare taxes that have been paid during the current calendar year; however, I doubt if Delta will move to do so until the elimination of non-qualified benefits is finalized beyond appeal.

Pilots who retired before 2005 may have a difficult battle in recovering Medicare taxes (and FICA if applicable) because a current year account for these deductions does not exist.

We discussed having attorneys/CPA's look into the issue of the possible recovery of Medicare and FICA taxes. After we receive an opinion, we may want to approach Delta about the recovery of Medicare/FICA for all pilots who retired with a non-qualified benefit. We may want to wait until termination of the non-qualified benefit is finalized. The 2005 retirees may want to contact Delta now in hope of reversing any excess Medicare/FICA taxes before the end of the calendar year.

### **Contact Question**

*The last feedback is Oct 23. Are you worried about the "Biased Judge" reading these e-mails?*

### **DP3 Answer**

We are not "worried" what the judge reads on our DP3 website and she hasn't access to our e-mails without cause and court approval. The ALPA motion to have her recuse herself from monetary pension issues because of perceived bias was denied by her but has accomplished at least two things. Her demeanor towards pilots in court has changed and the table is set for appeals on those grounds if necessary. Lastly, pay attention to her rulings vs. her unique bench style...she's getting an education about professional pilots and we haven't lost anything yet. Our motion to compel NQ payments was ruled by her on procedure not merit. The facts/merit of our motion has yet to be heard and ruled upon.