

1120.5 Legislative Background

Under the 1937 Railroad Retirement (RR) Act, an age and service annuitant and a spouse annuitant who were paid under the railroad formula had no earnings limitations. The only work restrictions were that an annuity was not payable for any month an annuitant returned to railroad or last pre-retirement non-railroad employment (LPE).

Section 2(f) of the 1974 Railroad Retirement Act extends work deductions to many retirement employee and spouse annuitants who were never subject to them. The law was effective 1-1-75. However, work deductions could be imposed prior to 1-1-75 for annuitants who filed in 1975 with a retroactive annuity beginning date (ABD) of 1974.

The intent of the 1974 RR Act was to assess work deductions (W/D) under the new law, as if railroad compensation were wages under the Social Security (SS) Act. The RR Act provisions for assessing work deductions under the annual earnings test are the same rules as those applied under the SS Act. However, the law was not intended to penalize railroad employees whose earnings before 1975 had been substantially railroad compensation. Therefore, the railroad retirement work deduction provisions apply only to employees and spouses (and divorced spouses beginning 10-1-81) who have a work deduction insured status (see FOM-I-1120.20). A work deduction insured status is determined according to the number of quarters of coverage of all SS wages and of railroad compensation beginning 1-1-75. Work deductions are applied only to certain parts of the annuity that are attributable to all wages and to railroad compensation beginning 1-1-75.

Under the 1988 Amendments, effective December 1, 1988, an employee or spouse can continue in or return to last person service and still be entitled to an annuity. However, LPE earnings reductions apply to tier II and any supplemental annuity. The reduction is one dollar for every two dollars earned in LPE up to a maximum of 50% of each component. A spouse's tier II is reduced for the employee's LPE earnings as well as the spouse's own.

Unlike excess earnings work deductions, which are calculated on the basis of annual earnings, LPE work deductions must be calculated on the basis of monthly earnings. The reduction occurs no matter how much money is earned or how old the annuitant is.

The RR Act contains penalty rules for failure to report earnings. Similar rules have always applied for disability annuitants; for retirement annuitants, penalties may apply beginning 1-1-75 if earnings are not reported timely (see FOM-I-1120.15).

1120.10 Effect Of Earnings

Not all age and service and spouse annuitants (including divorced spouses) are subject to the annual earnings limitation. To be affected by the earnings limitation, the employee or other beneficiary must have a work deduction insured status. Also, only part of the annuity rate may be withheld for excess earnings, even though the full

benefit can be withheld in RR Act survivor annuities and SS Act benefits. The work deduction components that may be withheld are: the portion of tier I that is based on all SS Act wages and on railroad compensation beginning 1-1-75, and the vested dual benefit (VDB). See FOM-I-1120.35.

If the employee has a work deduction insured status, both the employee and the spouse may lose part of their respective annuities because of the employee's excess earnings. The spouse may lose only her own work deduction components if she works and the employee does not. If they both work, the employee's excess earnings must be recovered first. A divorced spouse annuity is affected in the same manner as a legal spouse annuity. However, a divorced spouse who has been divorced from the employee at least 2 years will not be affected by the employee's earnings beginning 1-1-85.

An employee or spouse subject to deductions for work may never lose more than the amount of the work deduction components times the months of eligibility in a year, regardless of the amount of excess earnings to be recovered. However, an annuitant with last person service earnings is subject to separate LPE work deductions, as discussed in FOM-I-1121.

Under the provisions of the RR Act, no annuity is payable for any month the annuitant works in railroad service. **Exception: Beginning August 17, 2007, an independently entitled divorced spouse can be paid an annuity even if the employee is still working for the railroad.**

NOTE: All references to a spouse annuitant in this chapter include a divorced spouse, unless stated otherwise.

1120.15 Penalty for Failure To Report Earnings

If a retirement annuitant subject to work deductions fails to make a timely report of earnings and an overpayment results, he may be subject to a penalty. Penalty deductions may also apply to annuities payable under the overall minimum (O/M) guaranty.

1120.15.1 When Report Is Due

FOR EARNING YEARS PRIOR TO 2002

Ordinarily, a report is considered timely if it is received by April 15 of a year. However, if reporting Forms G-19 or G-19L are released after February 15, the annuitant is allowed at least 60 days after their release to return the questionnaire.

A report is considered late if it is received after the due date (April 15 or 60 days), unless a request for extension of time was requested and granted. It is the bureau's policy to be liberal with requests from annuitants to submit late reports. The time period for reporting may be extended up to 3 months. Any honest misunderstanding of the

responsibility or failure to report because of illness in the family, the press of other obligations (e.g., filing income tax report), or the like, constitutes good cause. No penalties may be imposed if there is good cause for a late report.

FOR EARNING YEARS 2002 AND LATER

RRB will consider the Social Security Administration's report of earnings to be the annuitant's official report of earnings. RRB will secure the earnings information directly from SSA. In effect, all reports will be considered timely filed.

The penalty provision is still part of the Social Security Act and therefore, a penalty is still possible since RRB's penalties are based on rules established in the Social Security Act.

The annuitant still has to file a report if any of the following conditions apply:

- The annuitant starts working and expects to earn more than the annual exempt amount;*
- The annuitant's employment is not covered under the Social Security Act;*
- The annuitant stops working;
- The annuitant goes to work for a railroad or railroad labor organization; or
- RRB requests the annuitant to report earnings.

*If either of these conditions occurs, penalties will still be applicable.

Also, in cases where it is clear that an annuitant has made an attempt to receive benefits through fraudulent means by failing to report the proper earnings to RRB, late reporting penalties will still be applicable.

EXAMPLE: An annuitant would be subject to a penalty if he or she attempted to avoid deductions under the earnings test by willfully and knowingly failing to report their correct earnings to SSA, such as a self-employed beneficiary who does not file an SE tax return when required, or an annuitant who defers his or her wages and fails to report this to SSA.

If a penalty deduction applies for an earning year 2002 or later, it will be assessed using the procedure for earning years prior to 2002.

1120.15.2 Deduction Schedule

If "good cause" for the late earnings report is not met in retirement cases, the following deduction schedule applies:

- For the first late report, the penalty deduction is equal to the work deduction components applicable for December of the report year, except that if the amount of the deduction imposed for the taxable year (or years if more than one year is considered as the first failure) is less than the work deduction components for December, the penalty deduction is an amount equal to the deduction imposed, but not less than \$10.

Example: Mr. Stone became entitled to an annuity in 2007 and had reportable earnings for 2008 and 2009. He did not make his annual reports for those years until 2010. His 12-2009 work deduction components totaled \$1403.26. His deduction imposed for the 2008 and 2009 excess earnings was 1226.00. Since this is Mr. Stone's first failure to report and his excess earnings deduction is less than the actual work deduction components applicable, the penalty amount to be applied is \$1226.00.

- For the second late report, the penalty deduction is two times the work deduction components for December of the year in which the earnings were made. (THERE IS NO PENALTY LIMITATION FOR THE SECOND AND SUBSEQUENT FAILURES TO REPORT EARNINGS.)
- For the third and any subsequent late report, the penalty deduction is three times the work deduction components for December of the year in which the earnings were made.

Penalties for any given year may never exceed the number of months for which the annuitant was entitled to payment in that year.

Use the following guidelines in determining whether a failure to file a timely report is first, second, or subsequent failure:

(1) No Prior Failure

Where no penalty deduction has previously been imposed against the annuitant for failure to make a timely report, all taxable years (and this may include 2 or more years) for which a report of earnings is overdue are included in the first failure.

The latest of such years for which good cause for failure to make the required report is used to determine the penalty amount.

EXAMPLE: Mr. Smith became entitled to an annuity in 2004 and had reportable earnings for 2004, 2005, and 2006. He did not make his annual reports for those years until July 2007. When multiple years are involved in the first delinquent report, the latest year is used to determine the penalty amount. Therefore, the penalty is equal to his December 2006 work deduction component(s).

EXAMPLE: Using the same criteria presented in the example above, assume that it was determined that Mr. Smith was found to have good cause for not making a timely report for 2006. In this situation, the first failure to make a timely report would be 2005 and the penalty would be the December 2005 work deduction component(s).

(2) Second and Subsequent Failures

After one penalty deduction has been imposed, each taxable year for which a timely report of earnings is not made, beginning with reports of earnings which become delinquent after the date of the first delinquent report, and for which good cause for failure to make the required report is not found, is considered separately in determining whether the failure is the second or subsequent failure to report timely.

EXAMPLE: Mr. Thomas incurred a penalty deduction for not making his 2003 earnings report until July 2004. In August 2006, it was found that Mr. Thomas had not made a timely report of either his 2004 or 2005 earnings, and good cause was not present with respect to either year. The penalty for 2004 is equal to twice his work deduction component(s) for December 2004. The penalty for 2005 is equal to three times the work deduction component(s) for December 2005.

1120.15.3 Applying Penalties

Penalties are to be applied at the same time the overpayment is being worked up and are included as part of the total overpayment. The explanation regarding the penalty is included in the overpayment letter. If penalty deductions should have been assessed, but were overlooked when the overpayment was being worked up, they can be assessed during the reconsideration process. Good cause for late filing can also be developed during the reconsideration process. The overpayment amount in the Program Accounts Receivable (PAR) system includes the penalty amount. The penalty amount is recovered by the same method of recovery selected by the overpaid person to repay the regular overpayment amount.

1120.20 Work Deduction Insured Status Defined

An employee, spouse or divorced spouse has a work deduction insured status if the requirements in this section are met. FOM-I-230 explains the requirements for a quarter of coverage and an insured status.

1120.20.1 Employee Requirements

An employee has a work deduction insured status if he:

- A. Has sufficient wage quarters of coverage (QC) and is eligible for an SS benefit on his own earnings record as of 12-31-74; or

- B. Would qualify for an SS benefit on his own earnings record if old enough; or
- C. Has accumulated wage QCs which, when added to all compensation quarters of coverage after 1974, would equal the number of QCs required to have an insured status at SSA. The following formula is used to determine the number of QCs acquired toward a W/D insured status:

$$\begin{array}{r}
 \text{SS QC (all wages)} \\
 + \quad \text{RR QC (compensation after 1974)} \\
 \hline
 \end{array}$$

QC for W/D insured status

EXAMPLE: An employee born in 1939 needs 40 wage QCs to be insured at SSA. When he retired from a railroad in January 2009, he had 18 wage QCs and 34 compensation quarters after 1974. He has a work deduction insured status even though he doesn't have enough wage QCs for an insured status at SSA.

Before 8-13-81, an auxiliary vested dual benefit (VDB) could be paid to an employee on another person's earnings record. Entitlement to such a VDB does not, by itself cause a W/D insured status. However, an employee who is entitled to an auxiliary VDB may have a W/D insured status based on his own earnings record, according to the preceding criteria.

Beginning 10-1-84, any employee who has worked in the railroad industry consistently since 1-1-75 will have a W/D insured status. He will have a W/D insured status based solely on compensation QCs, even if he has no wage QCs. Forty QCs will have elapsed beginning 1975 through 1984, and all employees are fully insured at SSA when they have 40 QCs. The W/D insured status is attained 10-1-84, because a W/D insured status is acquired as of the first month of the quarter in which the employee earns his qualifying QC (see FOM-I-1120.25). Of course, an employee may acquire a W/D insured status based on compensation alone before 10-1-84, depending on his date of birth. For example, an employee born in 1920 needs only 31 QCs, and 31 compensation QCs have elapsed between 1-1-75 and 9-30-82. His W/D insured status is effective 7-1-82, the first day of the quarter. Most employees will fit into this category, and now have a work deduction insured status.

The following chart shows the date on which an employee will acquire a W/D insured status based solely on compensation, if he has worked consistently in the railroad industry since 1974.

YEAR OF BIRTH	REQUIRED QCs	DATE OF W/D INSURED STATUS
1920	31	7-1-82
1921	32	10-1-82
1922	33	1-1-83
1923	34	4-1-83
1924	35	7-1-83
1925	36	10-1-83
1926	37	1-1-84
1927	38	4-1-84
1928	39	7-1-84
1929 and on	40	10-1-84

The date on which a W/D insured status is attained would be earlier if the employee has any wage QCs.

An employee who began working in the railroad industry after 1974 will have a W/D insured status based on compensation alone when he completes 120 months of railroad service. His entire tier I will be subject to work deductions (see FOM-I-1120.35).

When military service (M/S) is credited as wages, it will be counted as wage QCs. Those QCs could give the employee a W/D insured status when they are combined with other wage QCs and with compensation QCs after 1974. When military service before 1975 is used as compensation, it will not result in extra QCs for a W/D insured status.

1120.20.2 Spouse Requirements

A spouse (including a divorced spouse) has a work deduction insured status if she:

- A. Is married to an annuitant who has or acquires a work deduction insured status; or
- B. Is receiving a vested dual benefit (VDB). Beginning 8-13-81, no new VDB may be paid to a spouse. If a spouse is receiving a VDB, she has a W/D insured status, and the VDB and the tier I W/D components may be withheld. If a VDB cannot

be paid to her, or if she is a divorced spouse and not entitled to a vested dual benefit, she does not have a W/D insured status unless the employee does, as stated in A.

NOTE: Entitlement to social security benefits on an earnings record other than the employee's or the spouse's own record does not cause a work deduction insured status.

1120.25 When W/D Insured Status Is Acquired

A work deduction insured status is acquired as of the first month of the quarter in which the employee earns the qualifying QC.

Beginning in 1978, SSA wage quarters are determined based on an annual report of earnings rather than the wages earned each quarter. Under the annual reporting method, one quarter of coverage is given for a specific amount of wages earned in the year regardless of when the wages were earned. FOM-I-230.140 lists the amount of earnings required each year for a QC. For example, in 1982 a QC is given for each \$340.00 of wages earned in the year. Therefore, if a person earned a total of \$800.00 in 1982, he would get credit for 2 wage quarters in 1982, regardless of when the earnings were made. The W/D insured status would be acquired at the beginning of the second quarter.

EXAMPLE: An employee has 28 QCs through December 1981 and needs 30 QCs for a W/D insured status. The employee worked in January of 1982 and earned \$1,600.00. The \$1,600.00 will give him 4 QCs for 1982. The 2nd quarter of 1982 is when he acquired his 30th QC; he receives one QC for each \$340.00 of wages. Therefore, he has a W/D insured status effective 4-1-82.

Based on the annual report of earnings, the RRB may not receive notice of wages earned in a year until September of the following year. Therefore, it may be determined that an employee has a W/D insured status based on current earnings reported by the employee.

1120.30 First Year of Entitlement For Monthly Earnings Test

The monthly earnings test may apply only in the first year after 1977 in which the annuitant is entitled to an annuity and has a non-work month (see FOM-I-1105.40). However, special rules apply for determining the grace year in retirement cases, since the employee must have a W/D insured status before work deductions for excess earnings may apply.

1120.30.1 Employee Has W/D Insured Status on Annuity Beginning Date

The first year of entitlement for the purpose of determining a non-work month begins with the month the annuity begins to accrue, if the annuity is a full age annuity, a 60/30

annuity or an age reduced annuity, and the employee has a work deduction insured status on his annuity beginning date (ABD).

1120.30.2 Employee Acquires W/D Insured Status After ABD

If an age and service annuitant does not have a work deduction insured status on his ABD, but acquires it at a later date, entitlement for the purpose of determining a non-work month begins with the first month of the quarter the annuitant acquires the qualifying quarter for a work deduction insured status.

If a disability annuitant (either occupational or total and permanent) acquires a work deduction insured status after age 65, entitlement for the purpose of determining a non-work month begins with the first month of the quarter that the work deduction insured status is acquired. If the disability annuitant acquires a W/D insured status before age 65, entitlement for the purpose of determining a non-work month begins with the month the annuitant attains age 65.

1120.30.3 Entitlement for Purpose of Determining Non-Work Month for Spouse

Entitlement for the purpose of determining a non-work month for the spouse is the month the employee acquires a work deduction insured status.

1120.35 Excess Earnings Work Deduction Components Defined

The employee and spouse excess earnings W/D components are defined in this section. An age reduction applies to the excess earnings work deduction components if the annuity is reduced for age. See FOM-I-1120.45 for field office procedure in identifying work deduction components.

1120.35.1 Tier I W/D Component

The employee and spouse tier I W/D components represent the portion of tier I that is attributable to all wages and to railroad compensation after 1974.

- A. Employee - The employee's tier I W/D component is called PIA 2 (Primary Insurance Amount). In this chapter, it will be referred to as the "tier I W/D component."

The employee's tier I W/D component equals the difference between the tier I PIA 1 based on all wages and compensation, and the PIA 17 based solely on compensation prior to 1975. The resultant tier I W/D component equals PIA 2, and is based on the sum of all wages plus compensation earned after 1974.

Even though PIA 17 is computed based on compensation through 1974 only, cost-of-living (COL) increases are applied to PIA 17 as they are to PIA 1. The amount of the tier I W/D component changes with each COL increase, and may also increase as the tier I PIA 1 is recomputed for additional earnings. Delayed

retirement credits (DRCs) may also increase the amount of the tier I W/D component.

The tier I W/D components are gradually increasing, as the years of compensation after 1974 on which the calculation is based are increasing. The tier I W/D component equals tier I for an employee who acquires his first month of railroad service after 1974, since PIA 17 equals zero.

- B. Spouse - The spouse's tier I W/D component equals one-half of the employee's tier I W/D component, rounded down to the nearest multiple of \$0.10.

1120.35.2 Vested Dual Benefit W/D Component

The entire vested dual benefit (VDB) amount is the VDB W/D component for the employee or the spouse. The VDB being paid is the amount used in assessing work deductions for excess earnings.

1120.35.3 Chart Summarizing W/D Components

The following chart summarizes the excess earnings W/D components for an employee or spouse.

	EMPLOYEE	SPOUSE
TIER I W/D COMPONENT (PIA 2)	PIA 1 minus PIA 17 updated for COL increases	50% of employee tier I W/D component
VESTED DUAL BENEFIT W/D COMPONENT	Entire Vested Dual Benefit	Entire Vested Dual Benefit, if any.

1120.35.4 W/D Components Involving Actuarial Adjustment or Waiver

If the annuity is reduced for an actuarial adjustment, charge the excess earnings against the unreduced work deductions components.

If an annuity is reduced by waiver, charge the excess earnings against the reduced work deduction components.

1120.36 Age Reduced Work Deduction Components

If the annuitant is receiving a pre-1981 amendment age reduced annuity, follow the instructions in Appendix F, "Form G-101a Instructions". These detailed instructions explain how to compute the appropriate age reduction factor and how this factor is applied.

If the annuitant is receiving a 1981 amendment reduced age annuity, apply the age reduction factor as of the annuity beginning date (ABD) to the work deduction components.

Example: If the gross tier 1 work deduction component is \$100, the gross vested dual benefit is \$50, and the age reduction factor on the ABD is .25000, multiply the .25000 by \$100 and subtract that product from \$100 to obtain the adjusted tier 1 work deduction component of \$75.00. Multiply .25000 by \$50 and subtract that product from \$50 to obtain the adjusted vested dual benefit work deduction component of \$37.50.

If the annuitant is receiving an annuity under the 60/30 provisions that has an age reduction subject to recalculation at age 62, use the age reduction factor on the ABD to adjust the tier 1 work deduction component before the effective date of the age 62 recalculation and the recalculated age reduction factor to adjust the tier 1 work deduction component from the effective date of the recalculation.

1120.40 When Excess Earnings Work Deductions Are Applied

1120.40.1 Employee

If the employee meets all the following criteria, excess earnings work deductions must be imposed:

- A. The employee is an age and service annuitant under full retirement age as of the month work deductions would begin;
- B. The employee has a work deduction insured status;
- C. The work deduction components exceed \$1.00; and
- D. The employee's earnings or expected earnings are greater than the annual limit for the year.

1120.40.2 Spouse

If all the following criteria are met, excess earnings work deductions must be imposed on the spouse annuity:

- A. The spouse is either receiving a vested dual benefit or is the spouse or the divorced spouse of an employee with a W/D insured status. The employee's age is immaterial.
- B. The spouse is less than full retirement age if she has excess earnings. However, the spouse's age is immaterial if her work deduction components are being used to recover the employee's excess earnings; and
- C. The spouse has excess earnings herself or the employee has a W/D insured status and has excess earnings.

EXCEPTION: Beginning 1-1-85, the employee's earnings do not affect the annuity of a divorced spouse who has been divorced from the employee at least 2 years.

1120.40.3 Order of Recovery

Work deductions based on the employee's excess earnings are applied on a monthly basis in the following order of priority:

- A. From the employee's tier I W/D component;
- B. From the employee's vested dual benefit;
- C. From the portion of the spouse or divorced spouse tier I amount subject to deduction. If both a spouse and divorced spouse are receiving annuities, the excess amount is recovered in equal proportions from both annuities; and
- D. From the spouse vested dual benefit, if a VDB is being paid.

Work deductions based on the spouse's or divorced spouse's excess earnings are applied only to that individual's own annuity.

1120.41 Field Office Action When Earnings Reports Received

When a report of excess earnings from a G-19L or other report is received from a retirement annuitant, notify Headquarters using SPEED. See [FOM1 15125](#).

1120.45 Using MARC and PREH to Determine Work Deductions

1120.45.1 Using MARC to Determine Work Deductions

The MARC (Microfiche of Annuity, Residual and Compensation) file (now on-line) should be used when an employee files for an annuity. It can also be used to advise the spouse if she files simultaneously with the employee, or before the employee's record shows on PREH.

- A. "VESTING QC, RQ" - The number of QCs an employee needs for an insured status under the SS Act is found on the MARC in this item. This is also the number of QCs the employee needs for a W/D insured status.
- B. "SSA QC" - This item shows the number of wage QCs the employee has acquired under the SS Act. If the employee is possibly insured based in part on pre-1951 social security earnings, "PI" is shown. To determine if the employee has a W/D insured status, you must also determine the number of the compensation QCs after 1974. The MARC no longer shows the number of railroad service months after 1974. You can make an accurate estimate by asking the employee about his railroad employment after 1974, or by checking the 1981 MARC II which does show the service months after 1974. If an older

MARC record is not available, you may request a Form G-90 (Certification of Service and Compensation) for a yearly breakdown of railroad compensation, if necessary.

If the employee has a W/D insured status based on the MARC information, the spouse has a W/D insured status.

- C. "PIA 17" - PIA 17 is the amount of tier I that is not subject to excess earnings work deductions. It is the portion of tier I that is payable if the employee has excess earnings work deductions, because it is the portion of tier I that is based on railroad compensation before 1975.

To compute the amount that would be deducted from the employee's annuity because of excess earnings, use the following formula:

Tier I PIA 1

- PIA 17

Tier I W/D Component (PIA 2)

+ Vested Dual Benefit

Total W/D Components

When RBD computes the amount to be deducted for excess earnings, the reduction for age will be deducted. The tier I W/D amount computed by RBD may also differ from the amount shown on the MARC if additional earnings, delayed retirement credits or cost-of-living increases are added.

1120.45.2 Using PREH to Determine Work Deductions

The (Payment Rate and Entitlement History) system can be used to determine if excess earnings work deductions have been applied to an employee or spouse annuity.

Withholding for excess earnings work deductions is in force if the 3220 PREH record indicates withholding. The following fields on the 3220 record will display the work deductions being withheld:

- "WD-MO-ADJMNT-AMT"
- "T1-REG-WD-WH-AMT"

- “VDB-WD-WH-AMT”
- “T2-LPS-WD-WH-AMT”
- “SUPP-ANN-LPS-WD-WH-AMT”

1120.50 Informing Annuitant Of Work Deduction Status

1120.50.1 Field Office

The first and most important notification of work deduction information an annuitant receives is in the field office. All applicants agree to report earnings over the exempt amount when the application certification page is signed. The importance of reporting excess earnings should be emphasized when the application is filed. Since most employees have now acquired a W/D insured status based on compensation alone (see FOM-I-1120.20.1), the importance of reporting earnings should be stressed for all applicants. If an employee has not yet acquired a work deduction insured status, advise him that he may acquire one if he works and earns additional QCs.

Effective 12-1-88, an employee or spouse no longer needs to stop work for a "last person service" (LPE) employer in order to qualify for an annuity. However, LPE earnings deductions apply to tier II and any supplemental annuity, up to a maximum of 50 percent of each component. The deduction will apply for any month that the annuitant has LPE earnings, regardless of the amount of those earnings or the annuitant's age.

The annuitant should understand that LPE earnings in excess of the annual exempt amount can also result in regular work deductions.

Use the information in FOM-I-1120.45 to answer inquiries about work deductions. All reports of excess earnings, LPE earnings, or changes in work status should be entered into SPEED unless otherwise requested.

1120.50.2 Award Notice Information

The monthly amount being withheld because of excess or LPE earnings is printed on the award letter. That amount is identified as "REDUCTION FOR EARNINGS," and is printed on Form RL-20e when the first check after the accrual check will reflect temporary work deductions. It is also printed in "rate break" form when the amount deducted in the ABD month differs from the amount to be deducted from regular monthly payments.

EXAMPLE I

Reduction For Earnings	Effective Date
------------------------	----------------

\$ 255.78	09-27-2009
\$418.50	10-01-2009

EXAMPLE 2

Reduction For Earnings	Effective Date	Supp Earnings Reduction	SUP Eff. Date
\$663.00	5-3-10	\$21.50	5-3-10

1120.50.3 Mass Mechanical Notification

The last mass mechanical notification of work deduction insured status was done in November 1977. There are no definite plans for another mass operation at this time.

Form letters RL-180 through RL-182 are used in that kind of operation to notify the employee and spouse if they have a W/D insured status and the amount of the W/D components.

1120.50.4 Work Deductions Award Letters

The following form letters are used to advise annuitants of work deduction adjustments to the annuity:

RL-119SR is used when an employee or spouse ceases LPE work and the reduction is being removed. The letter is generated through SPEED/ALTA and it is also available on RRAILS.

RL-169SR is used to explain to a spouse annuitant that work deductions cannot be removed from the annuity because the employee is still working. This letter is generated by SPEED and is also available on RRAILS.

Various code paragraphs also explain when work deductions are being applied and the effect of earnings on a retirement annuity.

1120.55 Excess Earnings Work Deductions In The ABD Month And Year

For years before 1982, follow the instructions in [FOM1, Article 11, Appendix C](#), "Form G-101a Instructions," for age and service work deductions.

The 1981 RR Act amendments changed the application of excess earnings work deductions in the month the annuity begins. No excess earnings work deductions will

be applied in the ABD month based solely on earnings before the ABD. This affects annuities that begin 1-1-82 or later.

If the employee had earnings after the ABD and work deductions apply in the ABD year, then all earnings in the ABD year (wages and railroad compensation) should be counted for the annual earnings test. However, work deductions apply only to those months where the non-railroad earnings exceed the **monthly** exempt amount.

If the ABD is on the first day of the month and the annuitant has both excess earnings in the ABD year and earnings over the monthly exempt amount in the ABD month, then we would apply work deductions to the ABD month.

EXAMPLE: An employee's ABD is 8-1-2009. Her earnings through August 2009 were \$26,500.00. She continued to work through the end of 2009; however, her monthly earnings after August 2009 were under the monthly exempt amount for that year. ABD month work deductions would be applied for August 2009 since the ABD is on the first day of the month and the earnings in August were over the monthly exempt amount.

If the ABD is any day other than the first day of the month and the annuitant does not earn over the monthly exempt amount for the remainder of the ABD year, no work deductions apply in the ABD month.

EXAMPLE: An employee last worked for her LPE employer on 8-23-2009. Her earnings through 8-23-2009 were \$16,520.00. Her monthly earnings through August 2009 were \$2,065. She continued to work through the end of 2009; however, her monthly earnings after August 2009 were under the monthly exempt amount for that year. No work deductions will be applied for August 2009 because the ABD is not on the first day of the month **and** she had no earnings in excess of the monthly exempt amount after the ABD.

Apply regular ABD month work deductions according to the table below:

IF the ABD is on ...of the month	AND annuitant works after ABD	ARE there non-railroad excess earnings in the ABD month?	ARE there excess earnings in at least one month after the ABD?	THEN, ABD year work deductions do...
The first	No	---	---	Not apply.
	Yes	Yes	---	Apply.
	Yes	Yes	Yes	
	Yes	No	Yes	

Other than the first	No	---	---	Not apply.
	Yes	Yes	Yes	Apply.
	Yes	Yes	No	Not apply.
	Yes	No	Yes	Apply, but the ABD month would be a non-work month.

For ABD months before 1-1-82, work deductions were applied in the ABD month based on the employee's earnings in that month, regardless of when they were earned. Therefore, the employee's annuity was often reduced for railroad compensation that was earned before the annuity beginning date.

Do not apply Last Pre-retirement Non-railroad Employment (LPE) age and service work deductions in the year the annuity begins when the annuity beginning date (ABD) is other than the first day of the month and there are no LPE earnings after the ABD.

1120.60 Excess Earnings Work Deductions When The Annuitant Is Entitled To SS Benefits

Beginning 1-1-82, tier I work deductions are not applied for any month the annuity is reduced for SS benefits. However, the annuity is now reduced for the amount of the SS benefit before work deductions. The SS reduction is made whether or not the SS benefit is actually payable after work deductions. The vested dual benefit W/D component is still withheld for months that work deductions apply.

In these cases, the vested dual benefit is still subject to work deductions for excess earnings. Also, if the employee is the annuitant with the excess earnings and the social security benefit offset, the spouse's tier 1 is still subject to withholding based on the employee's earnings.

When applying final work deductions in these cases, take into consideration the amount of the social security benefits withheld from tier 1 during the year before applying work deductions to the employee's VDB and the spouse's tier 1.

Since RRB has no control over the amount withheld from the employee in these types of cases, the usual proration of monthly work deduction amounts (e.g., 2/3 from the EE and 1/3 from the spouse) cannot be used in this situation.

When assessing permanent work deductions for an employee who has an SS offset, the order of recovery should be made as follows:

- The SS benefits payable for the year, then
- The employee's VDB, and finally,
- The spouse's tier 1 if it is not subject to withholding for SS benefits.

EXAMPLE 1

An employee under full retirement age has excess earnings of 20,580.00 in 2010. He is entitled to social security benefits of \$1007.00 for January 2010 through December 2010. He is also entitled to a VDB in the amount of 117.07 which was previously withheld based on his earnings estimate.

The final retirement work deductions are computed as follows:

Excess Earnings	\$20,580	
Minus Exempt Amount	14,160	
	6,420 divided by 2 = 3,210	
SSA Amount Available for Withholding	12,084	

The amount to be withheld for excess earnings is \$3,210.00. The SSA MBR indicates SSA withheld the SS benefit January through March and paid a partial for April. In other words, SSA was able to withhold the full amount subject to work deductions. *(Note: Even if the MBR does not indicate that SSA has processed work deductions for the year, assume that they will be done at a later date.)*

No tier 1 work deductions are needed on the spouse's annuity and the VDB amounts previously withheld from the employee should be paid.

EXAMPLE 2

Same conditions as example 1, except the employee earned \$40,000. The final work deductions would be completed as follows:

Excess Earnings	\$40,000	
Minus Exempt Amount	<u>14,160</u>	
	25,840/2	12,920
Minus SSA Amount Available for Withholding		12,084
Amount of Withholding Required by RRB		<u>836</u>

836.00 divided by 117.07 = 7.14103 months withholding required for the VDB. The employee is entitled to a partial VDB for August and the full VDB for the remainder of the year.

No tier 1 work deductions are needed on the spouse's annuity.

EXAMPLE 3

The employee has excess earnings and a tier 1 offset but is not entitled to a VDB. There is a spouse on the rolls with no SS offset.

This section does not include any discussion on how to handle these situations if a divorced spouse is also subject to withholding based on the employee's earnings. If you come across a case of this nature, please forward the folder or folderless package to Policy and Systems, attention: Teresa Givens.

Note: When retirement work deductions imposed by both RRB and SSA creates a disadvantage to the beneficiary, see FOM1 1120.60.1.

1120.60.1 Effect of SS Entitlement

Since tier I will not be reduced for work deductions when there is an SS benefit, the SS benefit actually replaces the tier I W/D component. This change makes it easier for the RRB to apply work deductions, since it eliminates the need for adjusting tier I because of work deductions on both tier I and the SS benefit. It also eliminates the need to "restore" part of the SS benefit when it exceeds the tier I W/D component (see FOM-1-1120.60.2).

Entitlement to SS benefits may be a disadvantage when the SS rate is greater than the tier I W/D component. However, whether or not SS entitlement is a disadvantage depends on the amount of the annuitant's earnings and whether or not he has a vested dual benefit. When the SS rate is larger than the tier I W/D component, the reduction in tier I for earnings is greater. For example, if the employee's SS benefit is \$1200.00, but his tier I W/D component is \$500.00, he will have a greater reduction in tier I if he is entitled to SS benefits.

Similarly, SS entitlement may be an advantage when the SS rate is less than the tier I W/D component. Whether or not it is an advantage also depends on the amount of the earnings and VDB entitlement. These are factors because they determine if the SS benefit or tier I W/D component are the only amounts that will be affected, or if W/D would also be applied to the vested dual benefit.

The following chart summarizes the effect of SS entitlement on work deductions. This chart is based on equal periods of SS entitlement and annuity entitlement (i.e., 12 months for both). This chart should be used to provide guidelines in advising an employee. Based on the individual factors involved (e.g., SS beginning date or earnings fluctuation), a decision may depend on your calculations in an individual case.

	AMOUNT OF SS BENEFIT	
EFFECT OF SS ENTITLEMENT	GREATER THAN TIER I W/D COMPONENT	LESS THAN TIER I W/D COMPONENT
Disadvantage	If there is a VDB	If there is a VDB and the excess earnings amount to OR be withheld is less than the total of the SS benefit and the VDB for the year
	If there is no VDB AND the excess earnings amount to be withheld is greater than the total of the tier I W/D components for the year	
Advantage	None	If there is no VDB and the excess earnings amount to be withheld is greater than the total of the SS benefits for the year
	OR	
	If there is a VDB and the amount to be withheld is greater than the total of the SS benefit and the VDB for the year	
No disadvantage or advantage	If there is no VDB the excess earnings amount to be withheld is less than or equal to the total of the tier I W/D components for the year	
	AND	
	If there is no VDB and the amount to be withheld is less than or equal to the total SS benefits for the year.	

EXAMPLE 1: SS Is Greater Than Tier I W/D Component, Employee Has a VDB The employee earned \$13,440.00 in 1982, which caused excess earnings of \$4,500.00 (\$13,440.00 - 4,440.00 ÷ 2 = 4,500.00).

His 1-1-82 rates were:

	Without SS	With SS	SS Benefit
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Tier I:	\$ 626.00	626.00	\$ 164.00
SS:		<u>-164.00</u>	
		462.00	
Tier 2:	+ 343.88	+ 343.88	
VDB :	<u>+ 172.49</u>	<u>+ 172.49</u>	
	1142.37	978.37	\$ 164.00
	<u>x 12 mos.</u>	<u>x 12 mos.</u>	<u>x 12 mos.</u>
	\$ 13708.44	\$ 11740.44	\$ 1968.00
The work deduction components were:			
Tier 1:	\$ 52.60	\$ 172.49	
VDB:	<u>+ 172.49</u>	<u>x 12 mos.</u>	
	<u>x 12 mos.</u>	\$ 2069.88	
	\$ 2701.08		

Although the amount to be withheld was \$4,500.00, the annuity could not be reduced for more than the total W/D components. The amounts payable after work deductions were:

13708.44	\$11740.44	\$ 1968.00
- 2701.08	- 2069.88	- 4500.00
<hr/>	<hr/>	<hr/>
\$11007.36	\$ 9670.56	\$ 0.00

SS entitlement in this case was to the employee's disadvantage, because the total benefits payable were \$1,336.80 less (the difference between the SS benefit and the tier I W/D component times 12 months).

EXAMPLE 2: SS Is Less Than Tier I W/D Component, Excess Earnings Withholding Is Greater Than Total Tier I and VDB W/D Components - The employee earned

\$15,440.00 in 1982, which caused excess earnings of \$5,500.00 (\$15,440.00 - 4,440.00 - 2 = 5,500.00).

His 1-1-82 rates were:

	Without SS	With SS	SS Benefit
Tier I:	\$ 503.00	\$ 503.00	\$ 250.70
SS:		<u>- 250.70</u>	
		\$ 252.30	
Tier II:	+ 75.62	+ 75.62	
VDB:	<u>+ 129.13</u>	<u>+ 129.13</u>	
	707.75	\$ 457.05	250.70
	<u>x 12 months</u>	<u>x 12 months</u>	<u>x 12 months</u>
	\$ 8493.00	\$ 5484.60	\$ 3008.40
The work deduction components were:			
Tier I:	\$ 294.80	\$ 129.13	
VDB:	129.13	x 12 months	
	423.93	\$ 1549.56	
	<u>x 12 months</u>		
	\$ 5087.16		

Although the amount to be withheld was \$5,500.00, the annuity could not be reduced for more than the total W/D components. The amounts payable after excess earnings work deductions were:

\$ 8493.00	\$ 5484.60	\$ 3008.40
- 5087.16	- 1549.56	- 5500.00

\$ 3405.84	\$ 3935.04	+ \$ 0.00
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The benefits payable with SS entitlement (\$3,935.04) exceeded the amount that would be payable if the employee were not entitled to SS benefits (\$3405.84). The difference (\$529.20) equals the difference between the tier I W/D component minus the SS benefit, times 12 months. SS entitlement was to the employee's advantage in this case as long as the earnings withholding exceeded \$4,557.96 (\$3,008.40/SS and \$1,549.56/VDB).

1120.60.2 Work Deductions Prior to 1982

The 1981 RR Act amendments changed the computation of work deductions when SS benefits are involved. Before 1-1-82, tier I work deductions applied even when the annuitant was receiving SS benefits. However, the reduction in tier I for SS benefits was the net SS benefit after SSA had applied work deductions. The RR annuity, therefore, was reduced only for the amount of the SS benefit that was actually paid.

Instead of changing the reduction in tier I every time the SS benefit rate changed because of work deductions, a simplified method was used. When temporary W/Ds were applied, the full amount of the SS benefit was used to reduce tier I. In almost every case, the amount of the SS benefit exceeded the work deduction components that would have to be withheld otherwise. Since this method actually resulted in reducing the annuity for an amount greater than the W/D components, there was generally no overpayment as long as the annuity had an SS reduction for each month that W/Ds would apply. When permanent W/Ds were computed, the RR Act W/D components were deducted from the benefits payable after the correct SS reduction was made.

EXAMPLE 1: The employee was entitled to SS benefits of \$254.30 effective 1-1-80, and \$290.70 effective 6-1-80. The employee expected to have earnings of \$5,120.00 in 1980. Since the exempt amount was \$3,720.00, his excess earnings were \$700.00.

The employee had a W/D insured status; his W/D components were:

	1/80	6/80
Tier I W/D Component	\$ 58.00	\$ 66.30
VDB	172.68	172.68
	<hr/>	<hr/>
Total	\$ 230.68	\$ 238.98

When temporary W/Ds were assessed, only the SS reduction was made in tier I. When permanent work deductions were computed, the following adjustment was made:

Total SS (gross) deducted from tier I:	\$ 3306.40
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Total SS after work deductions:	- 2606.40
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Tier I accrual:	\$ 700.00
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W/D recovered from W/D components:	- 700.00
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Overpayment:	0.00
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There were some cases in which the amount of the SS benefit greatly exceeded the amount of the work deduction components. When that happened, the reduction for SS would exceed the amount that should be deducted from the railroad annuity because of earnings. In those cases, temporary W/Ds were assessed with a "restoration" in tier I equal to the difference between the amount of the SS benefit and the work deduction components. In other words, only the work deduction components would be deducted from the annuity. The restored amount could only apply in months that the SS benefit would not be paid because of earnings.

EXAMPLE 2: The spouse's SS benefit was \$250.00. Her tier I W/D component was \$10.00. Her excess earnings to be withheld totaled \$650.00. Since the maximum amount to be withheld from her annuity is twelve times her W/D component, or \$120.00, it would be unjust to reduce her annuity for the gross amount of her SS benefit. Accordingly, we "restored" her SS benefit less \$10.00 (\$240.00) for the months that her SS benefit was not payable because of earnings. The monthly reduction for earnings, therefore, equaled her W/D component of \$10.00.

If the annuitant did not have a W/D insured status, but did have an SS benefit that had work deductions, the full amount of the SS benefit was restored in the months the SS benefit was payable after work deductions. In other words, the annuity was reduced only for the amount of the SS benefit that was payable after work deductions.

1120.65 Assessment Of Temporary W/D's For Excess Earnings

Work deductions are assessed on a "temporary" basis during the current year. The work deductions are temporary because the withholding is based on an estimate of earnings. The withholding is intended as an offset to prevent or reduce an overpayment when the final adjustment is made. Temporary work deductions for excess earnings are required whenever an annuitant under full retirement age expects to have earnings over the annual limit.

1120.65.1 When Initial Temporary W/Ds Are Applied

- A. ROC or PC awards - For cases paid through ROC or PC awards, the offset is based on the excess earnings divided by 12, or the number of months available for withholding. ROC automatically adds a 10 percent cushion to the amount of earnings being used for the estimate. See example 1.

If the basis for the withholding is less than the total work deduction components, it should be prorated between the employee and spouse annuities. Two-thirds or .66667 will be withheld from the employee's and one-third, .33333, from the spouse's annuity, if applicable. Round up the prorated amounts for both the employee and spouse to the dollar. See example 1 below. (NOTE: THESE ARE EXAMINER CALCULATIONS ONLY. ROC WILL PRORATE USING THE RATIO OF THE ANNUITANT'S WD COMPONENTS TO THE TOTAL OF ALL WD COMPONENTS.)

Example 1: An employee under FRA is entitled to an annuity beginning January 1, 1999. He has indicated that he will earn \$17,300.00 in 1999. His temporary work deduction withholding will be based on \$19,030.00 (\$17,300.00 times 10%). His tier 1 work deduction component is \$310.00 and his VDB is 169.40, for a total of \$479.40 (maximum work deduction component).

Based on the employee's estimate, we need to recover \$4,715.00 ($\$19,030.00 - 9,600.00 = \$9,430.00$; $\$9,430.00 / 2 = \$4,715.00$). The calculated TWD based on 12 months withholding is \$392.92 per month ($\$4,715.00 / 12 = \392.91666). The prorated withholding for the employee is \$262.00 ($\$392.92 \times .66667 = \261.95) and \$131.00 for the spouse ($\$392.92 \times .33333 = \130.97).

NOTE: IF THIS SAME CASE IS PAID THROUGH RASI, THE WITHHOLDING WOULD BE BASED ON THE MAXIMUM WORK DEDUCTION COMPONENT, \$479.40, INSTEAD OF THE 12-MONTHS WITHHOLDING.

Example 2: An employee under FRA entitled to an annuity beginning 9-1-98. On March 1, 1999, he reports that he will earn \$18,000.00 in 1999. His tier 1 work deduction component is 250.00 and the VDB is \$101.80. His spouse's tier 1 work deduction component is \$125.00, for a total maximum family work deduction component of \$476.80 component.

Based on the employee's estimate, we would use \$19,800 to compute the temporary work deductions. We need to withhold \$5,100.00 ($\$19,800.00 - 9,600.00 = \$10,200.00$; $\$10,200.00 / 2 = \$5,100.00$). The calculated TWD based on the number of months available for withholding is \$510.00 ($\$5,100.00 / 10$ months). Since the withholding based on the available months is higher than the maximum work deduction component, withhold the maximum work deduction components for the remainder of the year.

Temporary work deductions should be used for excess earnings in the current year. They may also be used if it is not possible to make final adjustment for earnings at the time the annuity is being certified.

B. RASI Awards

Excess earnings work deductions must be applied to a partial annuity rate when the field office computes an IMPACT or SPAR rate. RASI (Retirement Adjudication System Initial) applies temporary W/Ds to the employee or spouse final annuity when the employee or spouse has a W/D insured status and the application indicates excess earnings after the ABD. RASI also will apply temporary W/Ds to the spouse final annuity when the employee and spouse filed simultaneously and the employee estimates excess earnings after the ABD. If the spouse filed after the employee annuity was awarded, RASI will apply temporary W/Ds to the spouse if the employee's tier I W/D component is included in internal research records. Otherwise, work deductions will be applied to the spouse with a manual award.

RASI does not apply tier I work deductions when a social security benefit has been deducted from tier I (see FOM-I-1120.60). However, the vested dual benefit will continue to be withheld.

Beginning 1-1-82, work deductions will not be applied in the ABD month based on excess earnings before the ABD. However, if earnings are indicated for months after the ABD month, temporary W/Ds will be applied for each month in the year. RASI does not identify months in which earnings do not exceed the monthly exempt amount if there are any months of excess earnings after the ABD month. Work deductions are then applied in every month.

C. RASI EDP Review

During EDP review of the RASI awards, the goal is to identify awards where the RASI temporary work deductions are incorrect and to correct them using the following instructions.

If the correct temporary monthly work deduction amount is less than the amount being deducted (we are over deducting).

IF	THEN
The difference is \$10.00 or less....	<ul style="list-style-type: none"> DO NOT ADJUST TWD, and Notate on the RASI award "temporary work deduction amount should be \$XXX.XX, NAN, within \$10.00."
The difference is more than \$10.00....	<ul style="list-style-type: none"> Adjust the TWD retroactive from the month they were calculated in error.

If the correct temporary monthly work deduction amount is **more** than the amount being deducted (we are under deducting).

IF	THEN
The difference is \$1.00 or less....	<ul style="list-style-type: none"> DO NOT ADJUST TWD, and Notate on the RASI award "temporary work deduction amount should be \$XXX.XX, NAN, within \$1.00."
The difference is more than \$1.00....	<ul style="list-style-type: none"> Adjust TWD from the current month (zero accrual award) to correct the temporary withholding amount.

1120.65.2 Cases in Pay Status

When an annuitant in pay status reports expected earnings over the exempt amount after the ABD, temporary W/Ds are applied effective with the current month. Temporary W/Ds are rarely applied retroactively.

Due process rules do not require 30 days advance notice when applying or increasing temporary work deductions.

1120.65.3 When to Adjust Temporary Work Deductions for Upward Earnings Estimates and TWD Corrections

If the annuitant reports an increase in the amount of expected excess earnings or Last Pre-retirement non-railroad Employment (LPE) earnings after his ABD; or, if notification is received from SSA that indicates the annuitant will have an increase in expected excess earnings, adjust the withholding as needed.

If the amount of TWD's for the annuity in pay status is incorrect, and we have already withheld the estimated excess earnings amount, remove the tier 1/VDB TWD from the current month. If the annuitant is still working, set a tickler call-up for January 1st of the following year to re-enter the TWD. The TWD will be based on the previous year's estimate **plus 10 percent**.

Example: An employee under full retirement age has had a \$675.00 TWD withheld since January 1, 2009. In June, he sends in a revised estimate of \$20,000.00 for 2009. The case is being handled on a July voucher.

Based on the new estimate, we would calculate TWDs based on \$22,000.00 (\$20,000.00 times 10% = \$22,000.00. We need to withhold \$3,920.00 (\$22,000 - 14,160.00 = \$7,840.00/2 = \$3,920.00.) Since we have already withheld \$4050.00 through June 2009, remove the TWDs from the current month and set a tickler call-up for January 1st to enter the TWD for the year 2010. **DO NOT RELEASE AN ACCRUAL.** The year 2010 estimate of earnings will be \$24,200.00 (\$22,000 times 10%) unless notified otherwise.

If you receive a revised upward estimate during the year and we have not fully withheld the estimated excess earnings amount, determine the remaining amount of withholding that is needed and adjust the TWD from the current month.

Example: An employee sends in a revised estimate of \$22,500 .00 for 2010. Calculate TWDs based on \$24,750.00 (\$22,500 times 10%). We have been withholding \$580.00 (the maximum WD component) per month from the employee since March 2010. The case is being handled on a July voucher.

Based on the employee's revised estimate, we need to withhold a total of \$5,295.00 for 2010 estimated earnings (\$24,750.00 – 14,160.00 = \$10,590.00/2 \$5,295.00. \$2,320.00 has already been withheld through June 2010, therefore we need to withhold an additional \$2,975.00. Using the remaining months available in the year, we would adjust the TWD withholding amount from \$580.00 (the maximum WD component) to \$496.00 (\$2,975.00/6mos. = \$496.00).

Use a "zero accrual" recert as described in RCM Part 8 award form instructions to apply or adjust TWD's. The rules of due process do not require 30 days advance notice when applying TWD's.

1120.65.4 When to Adjust Temporary Work Deductions for Downward Earnings Estimate

If you receive a revised downward earnings estimate during the year and the new estimate of earnings is less than the yearly exempt amount established for the annuitant's age, remove the tier 1/VDB work deductions from the earliest month withheld in the year.

Example: An employee under full retirement age has had a \$350.00 TWD withheld since January 2010 based on his original estimate of earnings of \$30,000. In May 2010, the employee informs us that due to cutbacks at his company, he will only earn \$14,000 for the year 2010. Since \$14,000 is less than the yearly exempt amount for 2010 for annuitants under full retirement age, the TWDs will be removed from January 2010. **(NOTE: If the earnings are from the last pre-retirement employer, LPE work deductions would continue to apply).**

If you receive a revised downward earnings estimate during the year and we have already fully withheld the estimated earnings, remove the tier 1/VDB TWD from the current month. If the annuitant is still working, set a tickler call-up for January 1st of the following year to re-enter the TWD. The TWD will be based on the previous year's estimate **plus 10%.**

Example: An employee under age full retirement age sends us a revised estimate of \$18,200.00. He is still working but has reduced his hours. We have been withholding \$380.00 from his annuity since January 1, 2010. Calculate the TWD using \$20,020.00 (\$18,200.00 times 10%). The adjustment in this case is being handled in September 2010.

Based on the employee's revised estimate, we need to withhold \$2,930.00 (\$20,020.00 – 14,160.00/2 = \$2,930.00). Since we have already recovered \$3040.00, remove the TWD from the current month and set a tickler call-up for January 1, 2011 to re-enter the TWD. **NO ACCRUAL IS RELEASED IN THIS SITUATION.** The year 2011 estimate will be \$22,022.00 unless notified otherwise.

If you receive a revised downward earnings estimate during the year and we have not fully withheld the estimated earnings, adjust the TWD based on the **lesser of** the maximum work deduction component, or the excess earnings divided by 12 or the number of months available. **IN THIS INSTANCE, THE ACCRUAL WILL BE PAID. ADJUST THE TWD FROM THE LATER OF JANUARY OR THE ABD.**

Example: An employee under age full retirement age has advised us that his estimate of earnings for 2010 has been decreased to \$16,000. We have been withholding \$180.00 from his annuity and \$60.00 from his spouse's annuity since January 1, 2010,

based on his previous estimate of \$24,000.00. Calculate the new TWD withholding amount using \$17,600.00 as the estimate. The case will be on a June voucher.

Based on the employee's revised estimate, we need to recover \$2,820.00 ($\$17,600 - \$14,160.00 = \$3,440.00 / 2 = \$1,720.00$). The calculated TWD based on the 12-month withholding is \$144.00. Since the 12-month withholding is less than the maximum work deduction component, recertify both the employee and spouse annuity from January 1. When prorated, we would adjust the TWD from January 1, 2010 to withhold \$96.00 from the employee and \$48.00 from the spouse.

1120.65.5 Removing Work Deduction Components

A temporary work deduction may be removed from the annuity, and the full annuity rate paid, if:

- A. The annuitant attains full retirement age - The work deductions are removed effective with the month the annuitant attains full retirement age. However, if there were months earlier in the year that W/D should have been applied but were not, the work deductions will be removed effective with the current month. When the examiner adjusts the case to remove the tier 1/VDB work deductions, they will include ALTA code paragraph 414.10 in the award letter. That paragraph advises the annuitant to contact the field office and provide a monthly breakdown of earnings for the months prior to the attainment month. Once the annuitant contacts the field, the earnings breakdown should be submitted via SPEED.
- B. The annuitant's wages will not exceed the monthly exempt amount, the annuitant will not perform substantial services in SE, AND the monthly earnings test applies - Work deductions are removed beginning the month the exempt amount is not exceeded unless it is December, because work deductions may apply in the following year. However, if there were months earlier in the year that W/Ds should have been applied but were not, the work deductions will be removed effective with the current month.
- C. The annuitant's earnings will not exceed the annual exempt amount - Any work deductions withheld in the year will be refunded; or
- D. The annuitant's estimate of earnings decreases, and sufficient work deduction components have already been deducted to offset the withholding for excess earnings - The work deductions generally will be removed effective with the current month, unless it is December, because work deductions may apply in the following year.

1120.70 Permanent Work Deductions For Excess Earnings

Permanent work deductions are normally determined after the end of the year, on the basis of an annuitant's annual report of earnings. Permanent work deductions are also

required when an annuity terminates and the annuitant had excess earnings in the year of termination. Beginning March 19, 2011, permanent work deductions can also be determined when a cease work report is filed. SPEED calculates permanent work deductions based on cease work reports so any cease-work report entered into SPEED that results in a USTAR referral should also be processed as permanent work deductions. Permanent work deductions are computed by determining the amount of annuities to be withheld based on the actual earnings, and deducting the amount of annuities temporarily withheld based on estimated earnings. The amount withheld cannot exceed the total of the annuitant's work deduction components for the year. If an overpayment results, the overpayment will be recovered from the annuity. An actuarial adjustment will not be used to recover an overpayment due to excess earnings if it is probable that the annuitant will have excess earnings in the future. FOM-I-1105.95 explains when partial withholding or actuarial adjustment may be offered.

If an accrual results when permanent work deductions are calculated, the accrual will be paid unless there is an outstanding overpayment. An accrual for a previous year will not be withheld because of excess earnings in the current year.

An employee's excess earnings in or after the ABD year may be high enough to result in the recomputation of the tier I PIA. The evidence required is described in FOM-I-230.151.

EXAMPLE: The employee earned \$44,112.00 in 2010 which caused excess earnings of \$14,976.00 ($\$44,112.00 - \$14,160.00 = \$29,952.00/2 = \$14,976.00$). The employee's tier I increased 1-1-10 because 2009 wages were included and caused a recomputation. The tier I increase reduced the overpayment. It also caused an increase in the amount of the tier I W/D component effective 1-1-10.

The annuity rates she was paid in 2010 were:

1/2010 – 12/2010	
Tier I	\$ 248.55
Tier II	65.41

\$ 313.96

The total annuities paid to the employee in 2010 were \$3,767.52. The annuity rates she should have been paid are:

1/2010 – 12/2010

Tier I \$ 248.33

Tier II 65.41

\$ 313.74

Follow the instructions in Appendix F of this chapter when applying final work deductions.

Form G-101a, "Worksheet For Work Deduction in Retirement Cases (Pre-1981 Amendment)"

Form G-101b, "Worksheet - Calculating Age Reduction in Retirement Work Deduction Cases"

Form G-101F, "Worksheet - Work Deductions in Retirement Cases For Excess Earnings in 1982 or Later"

Form G-101L, "Worksheet For LPE Work Deductions"