

1.1.1 Eligibility Requirements

A. Age and Service Requirement

The age requirement for an age and service annuity depends on the employee's years of creditable railroad service. The earliest age at which the employees can receive an age and service annuity is shown below. The RRB considers employees to have attained their age on the day before their birthday, as explained in FOM-I-111.3.2

Determining Employees' Earliest Retirement Age	
If the employees have:	Their annuity can begin the first full month they attain:
at least 360 months of railroad service,	Age 60.
120-359 months of railroad service,	Age 62.
60-119 months of railroad service with at least 60 months of railroad service after 1995.	Age 62.

B. Requirements for Employee Previously Awarded a Disability Annuity

Employees who were previously awarded disability annuities can qualify for age and service annuities only if their disability annuity terminated because they recovered medically from their disability before attaining *Full Retirement Age* (FRA) or if they cancel their disability annuity application and refund any amount paid by the RRB based on the disability annuity application.

Former disability annuitants were not required to have 120 months of creditable railroad service to be eligible for an annuity at age 62 if their disability annuities were payable on 10-29-51. A new award may have been made to them if they reapplied for an annuity and had met the other eligibility and entitlement requirements.

C. Full Retirement Age

The term *Full Retirement Age* (FRA) means the age at which an employee with less than 360 months of railroad service can receive a full annuity (not reduced for early retirement). FRA is attained the first day of the month in which that age is attained.

If employees have less than 360 months of railroad service, FRA for their Tier 1 age reduction is age 65 if they were born before January 2, 1938. The FRA for persons

born after January 1, 1938, will gradually increase over a 20-year period to age 67, as illustrated in the following chart.

Determining Employees' Full Retirement Age (FRA)

If employees were born:	then their FRA is:	If employees were born:	then their FRA is:
Before 1-2-1938	65	1-2-1955 thru 1-1-1956	66 and 2 months
1-2-1938 thru 1-1-1939	65 and 2 months	1-2-1956 thru 1-1-1957	66 and 4 months
1-2-1939 thru 1-1-1940	65 and 4 months	1-2-1957 thru 1-1-1958	66 and 6 months
1-2-1940 thru 1-1-1941	65 and 6 months	1-2-1958 thru 1-1-1959	66 and 8 months
1-2-1941 thru 1-1-1942	65 and 8 months	1-2-1959 thru 1-1-1960	66 and 10 months
1-2-1942 thru 1-1-1943	65 and 10 months	1-2-1960 and later	67
1-2-1943 thru 1-1-1955	66		

(*Full Retirement Age* also affects Tier 1 annuity deductions due to earnings as described in RCM 5.7, regardless of the employee's total years of railroad service.)

D. Employee Age Reductions

1. General 60/30

Employee 60/30 cases never have a tier 1 age reduction if the employees are at least age 62 on their employee ABD.

In addition, the Railroad Retirement and Survivor Improvement Act of 2001 (RRSIA) removed the Tier 1 age reduction for 60/30 employees retiring at age 60-61 who have an annuity beginning date of January 1, 2002, or later.

However, some 60/30 cases still have Tier 1 age reductions if the employees retired at age 60-61 and have annuity beginning dates before January 1, 2002 as explained in RCM 8.6.

2. Employee Has Less than 360 Months of Service but at Least 120 Months of Service

- a. **Tier 1 Age Reductions** - If the employee has less than 360 months of railroad service, the employee's Tier 1 will be reduced by 1/180 for each of the first 36 months they are under FRA and 1/240 for each additional month they are under FRA on the annuity beginning date.
- b. **Tier 2 Age Reductions** - The age reduction is based on age 65 or FRA, depending on the employee's railroad service.
 - If the employees began railroad service before August 12, 1983, their Tier 2 will be reduced by 1/180 for each month they are under age 65 on their annuity beginning date.
 - If the employee began railroad service after August 11, 1983, their Tier 2 will be reduced by 1/180 for each of the first 36 months they are under FRA and 1/240 for each additional month they are under FRA on their annuity beginning date.

3. Employee Has Less than 120 Months of Service but at Least 60 Months of Service after 1995

- a. **Tier 1 Age Reductions** - If the employee has less than 120 months of railroad service, the employee's Tier 1 will be reduced by 1/180 for each of the first 36 months they are under FRA and 1/240 for each additional month they are under FRA on the earlier of their RRA annuity beginning date or social security benefit date of entitlement.
- b. **Tier 2 Age Reductions** - The age reduction is based on age 65 or FRA, depending on the employee's railroad service.
 - If the employee should happen to have some service before 8/12/83, their Tier 2 will be reduced by 1/180 for each month they are under age 65 on their annuity beginning date.
 - If the employee began railroad service after August 11, 1983, their Tier 2 will be reduced by 1/180 for each of the first 36 months they are under FRA and 1/240 for each additional month they are under FRA on their annuity beginning date.

4. Summary Chart

The conditions for employee annuity age reductions are explained in the following chart.

Employee Annuity Age Reductions
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If the employees have:	The employees' Tier 1 will have an age reduction if:	The employees' Tier 2 will:
At least 360 or more months of railroad service.	<p><u>all</u> of the following apply:</p> <p>the employees first met the age or service requirements in a month after June 1984 and before January 2002;</p> <p>the employees had an annuity beginning date before January 1, 2002; and,</p> <p>the employees' ABDs are before the month they attain age 62.</p>	not have an age reduction
120 - 359 months of railroad service, with railroad service before 8/12/1983.	the employees' ABDs are before the month they attain their FRA.	have an age reduction if the employees' ABDs are before the month they attain age 65.
120 - 359 months of railroad service, without railroad service before 8/12/1983.	the employees' ABDs are before the month they attain their FRA.	have an age reduction if the employees' ABDs are before the month they attain their FRA.
Less than 120 months of railroad service, but at least 60 months of railroad service after 1995 and some railroad service before 8/12/1983.	<p>the employees' ABDs or SSA dates of entitlement are before the month they attain their FRA.</p> <p>(The employee must have an SSA Fully Insured Status to receive a Tier 1 component.)</p>	have an age reduction if the employees' ABDs are before the month they attain age 65.
Less than 120 months of railroad service, but at least 60 months of railroad service after 1995, without railroad service before 8/12/1983.	<p>the employees' ABDs or SSA dates of entitlement are before the month they attain their FRA.</p> <p>(The employee must have an SSA Fully Insured Status to receive a Tier 1 component.)</p>	have an age reduction if the employees' ABDs are before the month they attain their FRA.

1.1.2 Entitlement Requirements

A. Entire Age and Service Benefit

The employees must meet the age and service requirements for eligibility explained in RCM 1.1.1 and must file an annuity application. Also:

1. The employees must stop all railroad work for pay before their annuity can begin. Also note that, after the annuity is awarded, payment cannot be made for any month in which the employees return to work for a railroad employer.
2. Before an age and service annuity can be paid, employees must relinquish all seniority or other rights to return to work for any railroad employer. While an age and service annuity can begin to accrue as early as the day after they stop working for the railroad, it cannot be awarded until they relinquish rights to railroad employment. (See RCM 1.6.)
3. Before December 1, 1988, employees must have stopped work for their last non-railroad employer as explained in RCM 1.6.

B. Insured Status Requirement for Tier 1 Component

Age and service employee annuitants must have an SSA *Fully Insured Status* based on combined SSA wages and railroad earnings to receive a Tier 1 component.

The Quarter of Coverage (QC) requirement for *Fully Insured Status* for employees born after 1928 is 40 QCs. Therefore, if employees have at least 120 months of railroad service, they are assumed to have at least 40 quarters of coverage.

If employees have less than 120 months of railroad service, but at least 60 months of railroad service after 1995, their SSA wages must provide the additional quarters of coverage needed for an SSA *Fully Insured Status* to qualify them for the Tier 1 component. Refer to RCM 5.6.5 for more information about a *Fully Insured Status*.

1.1.3 Annuity Beginning Date

When an employee meets the requirements for entitlement to an A&SA, the annuity can begin on the latest of the earliest date permitted by law, or the day designated by the employee.

To determine the correct ABD for a particular age and service annuity see the instructions in FOM-I-111.10.1

1.1.4 When an Age and Service Annuity Is Suspended or Terminated

A. Entire Age and Service Employee Annuity Is Suspended

An age and service annuity is not payable for any month in which the annuitant works for an RR Act employer or other suspension events as explained in RCM 6.3.6 - RCM 6.3.7.

NOTE: Before 12/1/88, an age and service annuity was not payable for any month in which the employee returned to last person service employment as explained in RCM 1.6.

B. Tier 1 Component Only is Suspended

1. Alien Nonpayment Cases - The employee tier 1 is exempt from the alien nonpayment provisions as explained in RCM 4.9.21.
2. Deportation cases - Effective with tier I components payable for December 1, 1988, an employee tier I is suspended when:
 - a. a final order of deportation has been issued against such individual on the basis of association with the NAZI government of Germany during World War II, and
 - b. the final orders of deportation are issued on or after November 10, 1988.

The suspension is effective with the first full month after the final orders of deportation are issued. The Tier I becomes payable, only when the individual is lawfully admitted to the United States for permanent residence.

C. Age and Service Annuity Is Terminated.

An age and service annuity terminates with the first day of the month in which the employee dies. This means that the last month that the annuity is payable is the month prior to the month in which the death occurs.

1.1.5 Public Service Pension Reduction

A reduction to the employee's annuity for his or her own public service pension is built into the computation of the PIA #1 and PIA #9 as explained in RCM 1.1.15 - 1.1.18

1.1.6 Reduction For Worker's Compensation Or Public Disability

If the employee is receiving worker's compensation or other public disability benefits, his or her annuity may be subject to a reduction as explained in RCM 8.5.

1.1.7 Employee Age Reductions

- A. Employee Has Less Than 30 Years Service - When the non-disability employee with 120-359 months railroad service has an annuity beginning date before (s)he attains full retirement age (FRA), the employee's railroad formula tier I, tier II and vested dual benefit are reduced by 1/180 for each month up to 36 months plus 1/240 for each additional month beyond 36 that the employee is under FRA when the employee annuity begins.

EXCEPTION: The number of months used for the Tier 2 reduction is as follows:

1. If the employee has railroad service before 8/12/1983, tier 2 will be reduced by the number of months the employee is under age 65.
2. If the employee does not have railroad service before 8/12/1983, tier 2 will be reduced by the number of months the employee is under FRA.

NOTE: For those with an ABD earlier than 1-1-2001 and born prior to 1938, FRA is 65. For those born in 1960 or later, FRA is 67. For those born 1938-1959, the age varies. See RCM 8.3.92 for FRA chart.

- B. Employee Has 30 or More Years RR Service.--When the age and service employee has 30 or more years of railroad service and age reduction may apply to the tier I portion of his or her annuity as follows:
1. Employee Attained 60/30 Before 7-1-84 or Has an ABD of 1-1-2002 or Later.--If the employee attained age 60 and acquired 30 or more years of railroad service before 7-1-84, or has an ABD of 1-1-2002 or later, his or her annuity is not subject to an age reduction.
 2. Employee Attains 60/30 7-1-84 or Later and Has an ABD Before 1-1-2002 But Delays Retirement to Age 62.--If the employee either attains age 60 or acquires 30 or more years of railroad service 7-1-84 or later and has an ABD before 1-1-2002 and delays his or her retirement until the month in which (s)he attains age 62, his or her annuity is not subject to an age reduction.
 3. Employee Attains 60/30 7-1-84 through 12-31-85 and has an ABD before 1-1-2002 and Retires Before Age 62.--If the employer attains age 60 and acquires 30 or more years of railroad service before 1-1-86, but did not meet both requirements before 7-1-84 and has an ABD before the month in which (s)he attains age 62 and before 1-1-2002, his or her tier I is subject to a fixed age reduction of 36/180 divided by 2 (or .1000) effective on the ABD. The tier I benefit is recalculated effective with the first full month the employee is age 62. The employee's age reduction for the recalculated tier I changes to 35/180 divided by 2 (or .0972) as of the month the tier I recalculation is effective unless the employee was born on

the second day of the month. In that case the age reduction remains the same (36/180 divided by 2). The employee's tier II or vested dual benefit is not subject to an age reduction.

4. Employee Attains 60/30 1-1-86 or Later and Has an ABD Before 1-1-2002 and Retires Before Age 62.--If the employee either attains age 60 or acquires 30 or more years of railroad service 1-1-86 or later and has an ABD before the month in which (s)he attains age 62 and before 1-1-2002, his or her tier I is subject to an age reduction based on the number of months between age 62 and his FRA month. The tier I benefit is recalculated effective the first full month the employee is age 62. The number of months used for the employee's age reduction in the recalculation is changed to reflect the number of full months under FRA. However, there would be no change in the number of months used in the age reduction if the employee was born on the second day of the month. In that case, the age reduction remains the same (1/180 for each of the first 36 months under FRA, plus 1/240 for each additional month beyond 36.). The employees tier II or vested dual benefit is not subject to an age reduction.
- C. Employee Benefit Under the Special Guaranty Rate.--The age reduction to the employee's special guaranty rate is explained in RCM 8.3.85-8.3.88.
- D. Employee Has 5 – 9 Years of Service--Effective January 2002, the **Railroad Retirement and Survivor's Improvement Act (RRSIA)** established entitlement for employees with 5 – 9 years of railroad service. To be eligible for benefits, an employee with less than 120 months of service must have at least 60 months of service after 1995. RRSIA provides for full age and service annuities; reduced age and service annuities; and total and permanent disability annuities. There is no provision for occupational disability annuities under RRSIA. No employee, spouse or divorced spouse can be eligible for a 5-9 year annuity before the employee has earned the 60th month of railroad service after 1995. No entitlement under RRSIA can be effective before 01-2002, the effective date of the RRSIA provision.

NOTE: The employee may have service months prior to 1995. All railroad service will be used to compute the annuity, but only railroad service after 1995 will be used to determine eligibility under RRSIA.

WHAT RRSIA DID NOT CHANGE

All evidence requirements remain the same. All rules for setting an ABD, for determining a total and permanent disability, for determining spouse, divorced spouse, and widow entitlements are the same. For a retirement annuity, the employee must stop all compensated work in the railroad industry and relinquish rights. The computation of PIAs and the basic tier 2 will not change. The

reductions to tier 1 for SSA benefits, NCSP, PSP, etc., still apply. The reductions made for excess earnings and LPE earnings remain the same.

WHAT RRSIA CHANGED

RRSIA made significant changes in how the RRB pays annuities.

1. Beginning in January 2002, an employee with less than 120 months of railroad service can be eligible for an RRB annuity provided that at least 60 months of service were acquired after 1995. Creditable military service after 1995 may be used to compute the 60 months of service.
2. The employee must have a social security insured status (SSIS) to be entitled to the tier 1. The SSIS is determined by counting the quarters of coverage (QCs) earned by the employee in combined railroad and social security earnings. The required number of QCs is determined by the employee's year of birth. This information will be on the G-90. If there is no SSIS, the employee will not be entitled to a tier 1. The employee could still be entitled to a tier 2 on the ABD.
3. The tier 1 or tier 2 date of eligibility may be different from the ABD. The tier 1 and tier 2 age reduction months will be counted from their respective dates of eligibility through the month before FRA.
4. The tier 1 date of eligibility for payment and computation of reduction factors will be the later of: 01-2002, the RRSIA effective date; the date the 60th month of railroad service is earned; the date the employee's social security insured status (SSIS) is acquired; the first full month of age 62; or the date of entitlement (DOE) to social security retirement benefits. Additionally, rules related to retroactivity and the date the claim was filed remain the same.
5. Delayed retirement credits (DRCs) will be counted from the SSIS if it occurs after FRA. DRCs are also limited if the SSA DOE to a retirement (RIB) or disability (DIB) benefit is prior to the ABD. The basis of the disability provision is that under SSA regulation, Section 404.310, an SSA DIB automatically becomes an old-age benefit at FRA. See L-2009-05 for details. Example 1: Employee is initially entitled to a full age annuity at the age of 68, having less than 10 years of railroad service, but more than 60 months after 1995. He has a social security insured status since 1984, and has been in receipt of a reduced RIB from SSA since age 62. DRC's are **not** payable to this employee.

Example 2: Employee is initially entitled to a full age annuity at the age of 73, having less than 10 years of railroad service, but more than 60 months after 1995. She has a social security insured status since 1962, and has

been in receipt of a DIB from SSA since age 55. DRC's are **not** payable to this employee.

6. Total and permanent disability annuitants will be paid an unreduced tier 1 on the ABD. The tier 2 is not payable until the annuitant is age 62 for a full month and then it will be age reduced.

All the rules for computing RRSIA age reductions have been built into the estimate program (REAP) and the payment programs (ROC and PC programs). An overview of the rules is provided below.

SSA CONSIDERATIONS

Under RRSIA, entitlement to SSA benefits is important not only for subtracting the SSA benefit from the tier 1, but also for computing the age reduction in tier 1. There are several factors to consider when determining whether or not the SSA entitlement will affect the age reduction in the tier 1.

1. The SSA benefit must not be terminated or withdrawn.
2. The SSA DOE must precede the ABD.
3. The amendments limit consideration to SSA benefits under section 202(a), (b), or (c): old age, wife's and husband's benefits. This would include the following bics: A (Primary Claimant); B, B3, B8, BA, and BD (Wife 62 and over); B1, B4, BG, BH, BJ (Husband 62 and over); B6, B9, BN, BP, BQ (Divorced Wife 62 and over); and BR, BT (Divorced Husband 62 and over). Notice that disability benefits, children, widows and a spouse with child in care are not included.

FULL AGE AND SERVICE ANNUITY

Just like 10 year cases, annuitants will have to attain FRA in order to be entitled to a retirement annuity without an age reduction. Also, rules related to retroactivity and the date claim filed remain the same.

- The tier 1 eligibility date will be the later of: 01-2002, the RRSIA effective date; the date the employee acquires the 60th month of railroad service; the date the employee's SSIS is acquired; or the DOE to social security retirement benefits.
- If the SSIS is before the ABD, the tier 1 date of entitlement will be the ABD. If the SSIS is after the ABD, the tier 1 date of entitlement will be the SSIS date.
- If the employee has a date of entitlement to an age reduced social security retirement benefit, age reduction months for tier 1 are counted from the

SSA DOE through the month before FRA. This is true even though the employee has applied for the railroad annuity at or after FRA.

- Age DRCs are counted from the SSIS attainment to the ABD if the SSIS attainment is later than FRA.
- If the employee is entitled to a social security retirement benefit, and the SSA DOE is before the ABD, count DRCs from FRA through the month before the SSA DOE. (In other words, don't give an employee credit for age DRCs at RRB for months he receives an SSA retirement or disability benefit.)
- The tier 2 eligibility date cannot be before the employee has acquired the 60th month of railroad service. The employee will receive a full tier 2 on the ABD.

EXAMPLE 1: The employee files for a full age annuity under the 5-9 year rules. His date of birth is 06-04-1937. He acquired his 60th month of railroad service in 03-2001. His SSA DOE for a reduced retirement benefit is 01-2002. In 06-2002, he files for a full age retirement benefit at RRB. His date last worked is 05-31-2002. His ABD is set at 06-2002. The tier 1 will have 5 age reduction factors because of his DOE to SSA retirement benefits.

EXAMPLE 2: The employee files for a full age annuity under the 5-9 year rules. His date of birth is 06-04-1937. His SSA DOE for a full retirement benefit is 06-2002. He acquires his 60th month of railroad service in 08-2002. In 09-2002, he files for a full age retirement benefit at RRB. His date last worked is 08-31-2002. His ABD is set at 09-2002. The tier 1 will not receive DRCs for 6, 7, or 8-2002 because he was entitled to an SSA retirement benefit for those months.

REDUCED AGE AND SERVICE ANNUITY

Just like 10 year cases, annuitants paid under RRSIA will have to be age 62 for a full month to receive an annuity with an age reduction. The reduction per month will be the same (i.e., 20% reduction over the first 3 years for employees, and 25% reduction over the first 3 years for spouses; and for those born in 1938 or later, an additional 10% reduction over the next 2 years for employees and spouses). As with full age annuities, how we count those reduction months may differ.

- If the SSIS is before the ABD, the tier 1 date of entitlement will be the ABD. Count age reduction months from the ABD through the month before FRA. If the SSIS is after the ABD, the tier 1 date of entitlement will be the SSIS date. Count the age reduction months from the SSIS through the month before FRA.

- If the employee is over age 62, and has a date of entitlement to SSA retirement benefits, count the age reduction months for the tier 1 from the SSA DOE to the month before FRA.
- If the employee is over age 62, but does not attain his 60th month of railroad service until after age 62, the ABD can not be earlier than the 60th month of service. Count age reduction months from the 60th month of service to the month before FRA.
- Reduce the tier 2 by the number of months between the ABD and FRA (or between the ABD and age 65 if the employee has a service month before 09-1983.)

EXAMPLE: The employee files for a railroad annuity under the 5-9 year rules. His date of birth is 09-01-1940. His DOE at SSA is 09-2002. He acquires his 60th month of railroad service 06-2003. The date of filing at RRB is 09-03-2004. His ABD will be 09-2004. (No retroactivity for age reduced annuities.) However, tier 1 age reduction will be counted from the first date of eligibility, 06-2003. Tier 2 age reduction will be counted from his ABD to the month before FRA, or age 65 if there is a service month before 09-1983.

TOTAL AND PERMANENT DISABILITY ANNUITY

As with 10 year cases, the Disability section will make the rating determination. In order for an employee with 60 months of service after 1995 to be rated for a total and permanent disability, the employee will have to meet social security disability rules.

- The employee will have to have an SSIS.
- The employee will have to meet the 20 in 40 rule.
- The tier one will not be age reduced.
- The effective date of the tier 2 will be the later of: the ABD; the first full month the annuitant is 62; or the filing date. The age reduction will be computed from the effective date through the month before FRA. If the employee has a service month prior to 09-1983, count age reduction months up to age 65.

HOW TO PROCESS 5-9 YEAR CASES

All 5-9 year cases will be paid on ROC or the PC programs. For the PC programs, the SSIS and RIB DOE will be manually entered for any case which is designated as a 5-9 year case (TYPE COMP of 8). For ROC, this information is either filled in when the JADE connection is made or is entered manually by the examiner. Therefore, if the

JADE connection is not working and you don't have MBR data available, do not process a 5-9 year case until the JADE connection is restored. The DRC and age reduction computations will be processed by the programs. For disability cases, MAP referrals will be generated when the annuitant is 62 and eligible for the tier 2.

1.1.8 Reduction For Social Security Benefits

The employee's tier I is reduced but not below zero, by the full amount of any social security benefit (s)he is receiving. This is the amount before SSA applies work deductions, partial withholding or temporary withholding.

If the employee's social security benefit was subject to work deductions for a year 1975-1981, refer to RCM 5.7 Appendix E and RCM 5.7 Appendix F, "Form G-101a Instructions" for procedure to restore the tier I offset for SS benefits.

1.1.9 Reduction For Earnings

If the employee has a work deduction insured status, his or her annuity is adjusted for excess earnings. Effective 12-1-88, an employee's tier 2, supplemental annuity and spouse's tier 2 are subject to work deductions for last person service. Both types of work deductions are explained in RCM 5.7.

1.1.10 Requirements For Increasing An A&SA Under The O/M

In order to have his A&SA increased under the O/M, this annuitant must meet the requirements of the SS Act as explained in RCM 8.3.8.

1.1.11 When The O/M Is Applicable

An A&SA can be increased under the O/M as explained in RCM 8.3.11 through 8.3.13.

1.1.12 Referral For O/M And WF Test

The Monthly Attainment Processing (MAP) program will release a diary card in cases on the rolls where the spouse's date of birth has been entered into PREH to alert the examiner of the possible need for an adjustment when the following events occur:

- A spouse who is receiving an annuity that is not based on the O/M formula attains age 62; or
- (A spouse who is receiving an annuity that is not based on the O/M formula attains full retirement age or)
- A spouse who is not receiving an annuity and is not included as an IPI in an annuity based on the O/M formula attains full retirement age.

The referral message will read "ANN-SP 62 OR SP FRA TEST FOR O/M AND VDB." Upon receipt of this referral, examine the folder to determine if the annuity could be paid under the O/M formula is explained in RCM Chapter 8.3 or to determine if the spouse is eligible for a regular spouse's annuity (see RCM Chapter 1.3).

A diary card will also be released when the employee attains age 62 and a PIA #4 amount has been entered into the record to alert the examiner to pay the employee a RIB VDB as explained in Section 1.1.33. Prior to the 1981 amendments, diary cards were also used to determine if the spouse annuitant was entitled to a VDB (see RCM Chapter 1.3. Appendix D).

1.1.13 Development

There should be sufficient information on recently filed applications to identify potentially eligible auxiliary beneficiaries. When complete SS benefit information is not in file or the SS benefit amount stated in file would not preclude application of the O/M, release Form G-60 to obtain or verify SS benefit information. Develop any required evidence (see RCM 1.1.21) or additional information through the field.

If Forms G-319, and/or G-320 were developed but it is determined that the O/M is not applicable, release Form Letter RL-300 to the employee (see RCM Part 11.)

1.1.14 Earnings Restrictions

When an A&SA is increased under the O/M, the amount of the increase is affected if the annuitant earns more than the annual exempt amount while he is under full retirement age, (age 70 prior to January 1, 2000), or (age 72 prior to 1-1-83). The annuitant's increase under the O/M is also affected if he works outside the U.S for 45 or more hours in a month before he attains full retirement age, (age 70 prior to January 1, 2000), or (72 prior to 1-1-83). See RCM 8.3.135 - 8.3.143 for a complete discussion of how work deductions apply to an A&SA increased under the O/M.

1.1.15 Non-covered Service Pension (NCSP) Provision

Except as explained in RCM 1.1.17, the 1983 Social Security Act Amendments (PL 98-21) establish a reduction in PIA #1, PIA #9, PIA #17 and SSEB PIA for the following annuities:

1) Employees who attain age 62 after 1985 (including employees receiving a reduced 60/30 annuity who attain age 62 after 1985); or

Become entitled to a disability annuity after 1985; and

Become entitled to a pension based in whole or in part on non-covered service 1-1986 or later (See RCM 1.1.116)

2) Spouses/divorced spouses (including independently-entitled divorced spouses) who become eligible for an annuity on the wage record of an employee who is entitled to a pension based in whole or in part on non-covered service 1/1986 or later (see RCM 1.1.116). The NCSP reduction is factored into the PIA calculation, whereby spouses/divorced spouses receive one-half of the employee's NCSP-reduced tier 1.

1.1.16 Definition Of Non-covered Service Pension

For purposes of the employee non-covered service pension provision, a non-covered service pension (NCSP) is any payment based in whole or in part on earnings for services that are not covered as employment under section 210 of the Social Security Act.

A lump-sum payment that is actually a refund of the individual's contributions to an employee pension, including interest, is not a pension payment and does not affect the tier I or O/M benefit

Pensions that are paid in other than monthly amounts will be allocated to an equivalent monthly amount. Also, a lump sum payment that is made as a substitute for periodic payments qualifies as a pension under this provision. The lump sum will be prorated to a monthly amount.

Finally, the offset is the amount of the non-covered service pension before any reduction in the pension that the individual elects to provide a survivor's benefit.

Note: A public disability benefit may also be considered a NCSP. Examiners should consider this whenever a PDB offset applies. Form G-207 is used to determine if an annuity is subject to reduction due to a NCSP. Form G-207 also has a reminder to consider a reduction in the employee's annuity due to a Public Disability Benefit. If Form G-209 was not previously requested, the examiner should have the field service develop for this unless an exception applies.

1.1.17 Exceptions To The Non-covered Service Pension Provision

The non-covered service pension provision does not apply if the employee:

- A. Becomes entitled to a disability annuity before 1986 and remains entitled to it in any of the 12 months immediately before he attains age 62 or has re-entitlement to a disability annuity; or
- B. Has 30 years of coverage as explained in RCM 8.11 Appendix M. (The 30 years of coverage requirement should not be confused with 30 years of service. An individual with very low wages could have 12 months of service in a calendar year but not a year of coverage.)
- C. Is a newly hired federal employee (hired after 12-1983).

- D. Is an employee of a non-profit organization which did not have Social Security coverage for any of its employees on 12/31/83 and who became covered under the SS Act for the first time as an employee of that organization under the compulsory coverage provisions in P.L. 98-21.
- E. Meets the age and service requirements for his/her non-covered employment pension prior to 1986, even if (s)he does not elect to receive the pension until after 1985. In determining if this exemption applies, the individual must meet all the requirements for the pension (e.g., years of service, attainment of age, amount of contributions, etc.) prior to 1986.
- F. Is entitled to the pension based entirely on non-covered employment prior to 1957. (This includes military service pensions based wholly on military service performed before 1957.)
- G. Is receiving pension payments based on earnings as a minister from a church.
- H. Beginning January 1995, a foreign pension that is payable by another country based on a totalization agreement with the United States will cause an exemption to the non-covered service pension. A foreign pension is based on a totalization agreement if entitlement to the pension is established as the result of the agreement between the U.S. and the foreign country.

A foreign pension is not based on an agreement if the beneficiary met the normal benefit eligibility requirements of the other country and did **NOT** rely on the agreement to establish entitlement.

While most U.S. agreements provide for adding U.S. and foreign credits together, if necessary, to establish entitlement to a foreign benefit, not all do. Certain agreements establish alternative eligibility requirements. When entitlement to the foreign benefit is established in accordance with such alternative requirements, the foreign pension is considered to be a pension based on an agreement with the U.S.

Example: Under Swiss law, a non-Swiss citizen would normally need 10 years of Swiss coverage to qualify for a retirement pension. The U.S.- Swiss social security agreement modifies Swiss law so that a U.S. citizen can qualify for a Swiss retirement pension with as little as one year of Swiss coverage. Thus, a U.S. citizen who qualifies for a Swiss retirement pension with less than 10 years of Swiss coverage would receive a Swiss pension based on the agreement with the U.S.

Conversely, a U.S. citizen who receives a Swiss retirement pension with 10 years or more of Swiss coverage would not receive a pension based on the agreement with the United States.

The following types of pensions paid by agreement countries always allow for an exemption from the NCSP provision:

Country	Type of Pension
Canada	Old Age Security (OAS)
Finland	National Pension Scheme (NPS)
Netherlands	National Insurance Scheme (AOW)
Norway	Basic Pension Program
Sweden	Basic Pension Program

The following types of pensions paid by agreement countries do **NOT** allow for an exemption from the NCSP provision unless the applicant claims an exemption under the totalization agreement:

Country	Type of Pension
Australia	Effective – October 1, 2002
Austria	All
Belgium	All
Canada	Canada Pension Plan (CPP) (a) Retirement (b) Disability Quebec Pension Plan (QPP) (a) Retirement (b) Disability
Chile	Effective - December 1, 2001
Finland	Employment Pension Scheme (EPS)
France	All
Germany	All
Greece	All
Ireland	All
Italy	All
Japan	All – Effective October 1, 2005
Luxembourg	All
Netherlands	Employed Persons Insurance Scheme (EPIS)
Norway	Supplementary Pension Program
Portugal	All
Republic of Korea	All - Effective April 1, 2001
Spain	All
Sweden	Supplementary Pension
Switzerland	All

	NOTE: Swiss retirement pensions paid to U.S. citizens with less than 10 years of Swiss coverage are always based on the agreement.
United Kingdom	All

If the applicant wishes to claim an exemption from the NCSP provision based on a totalization agreement, the field office will secure a statement that authorizes RRB to request verification of the receipt of the totalization benefit. Send the statement to P&S-RAC to determine if the offset can be removed.

- I. Prior to January 1995, military reservists who received a pension based in whole or in part on reserve service before 1988 were subject to the NCSP provision. Effective January 1995 and later, the PIA's 1, 9 and 17 are exempt from the NCSP provision if the pension is based, in whole or in part, on non-covered reserve duty before 1988, but after 1956.

NOTE: After removal of the NCSP provision caused by military reserve service, the NCSP may still apply because of receipt of another pension based on non-covered employment.

1.1.18 Adjustment To The PIA #1, PIA #9, PIA #17 or SSEB

The adjustment to the amount of the PIA #1, PIA #9, PIA #17 or SSEB is explained in RCM 8.11.76 - 8.11.79.

The reduced PIA's are based on the PIA's in effect on the ABD. The amount of the non-covered service pension used is the monthly rate effective on the later of the ABD or beginning date of the non-covered service pension. If the employee becomes entitled to the NCSP based on non-covered service after the ABD month, the PIA #1, PIA #9, PIA #17, or SSEB is computed as if the NCSP were payable in the ABD month. However, the reduced PIA's are not used in the tier I or Retirement O/M benefit until the first month that the employee is entitled to both the NCSP and the RRB annuity.

The reduced PIA #1 is used to compute the employee and spouse tier I benefit. The reduced PIA #9 is used to compute the Retirement O/M benefit for the spouse or children. The reduced PIA #17 is used to compute the work deduction amount. These reduced PIA's are effective until entitlement to the non-covered service pension ceases or the employee dies. The full employee tier I PIA is used to compute a survivor annuity.

The **highest** of three PIA computations for the gross tier 1 amount for the employee annuity is used when the employee is subject to a non-covered service pension reduction:

- the NCSP reduced regular PIA: based on the employee's "year of coverage" total and reduced bend point percentage; or
- the unreduced special minimum PIA, or

- the special guaranty rate: based on the regular unreduced PIA minus $\frac{1}{2}$ the employee's pension amount attributable to post-1956 non-covered earnings.

See the G-563 instructions for requesting the manual calculation of these PIA's from RIS-CCU.

1.1.19 Future Entitlement

If the employee indicates that he has future entitlement to a NCSP, enter a call-up for the month before the expected date of entitlement (item 6 on the G-209) or the Non-Covered Service Pension screen of APPLE. Upon receipt of the case, initiate development action through the F/O. Do not suspend or reduce the annuity until development has been completed and a determination has been made.

1.1.20 Evidence Requirements For Age And Service Annuity

Evidence	When Required
Application (AA-1)	Always.
Age	Always.
Service and Compensation Report After 1936	Always.
Cessation of Service and Relinquishment of Rights	Always.
Service and Compensation Before 1937	If claimed and employee has less than 360 months subsequent service.
Current Connection	If a current connection is required.
Military Service	If military service is to be included in the annuity computation.
Non-covered Service Pension (G-209)	If the employee's date of birth is January 2, 1924 or later and (s)he is receiving a pension or annuity based on any work after 1956 not covered by social security or Railroad Retirement that begins January 1, 1986 or later.
VA Benefits (G-432 series)	If annuity rate prior to 9-1-83 is based in part on military service.

Joint and Survivor Annuity	If joint and survivor election made before 7-31-46 is operative.
Incompetency (G-253a, G-478, or G-479)	If incompetency is alleged or employee is in a mental institution.
Self-Employment Questionnaire - AA-4	If the employee was self-employed in the prescribed interval.
Guardianship (AA-5)	If guardian or other legal representative is selected as representative payee.
Marriage	If joint and survivor election is operative.
Citizenship and Residency	Foreign case.
Verification statement from the government service employer.	If the employee qualifies for an indexed tier 2 based on federal employment.

1.1.21 Evidence Requirements For O/M

Additional evidence is required to increase an age and service annuity under the Retirement O/M (see RCM 8.3.12).

Use Form G-230 to request the required forms.

Evidence	When Required
G-319, Statement Regarding Family and Earnings For Special Guaranty Computation	Always request this form from the employee. Request a second Form G-319 from the spouse if spouse alone or spouse with minor or disabled child in care could be included in the O/M.
G-320, Statement by Employee Regarding Student Age 18-19	If an elementary or secondary school student age 18-19 could be included in the O/M.
AA-19a, Application For Determination of Child Disability	If disabled child could be included in the O/M.
G-315a, Statement of School Official of Student's Full Time Attendance	If an elementary or secondary school student age 18-19 could be included in the O/M.

Also request the following:

Evidence	When Required
Marriage	If spouse could be included in O/M.
Age and Relationship of child(ren)	If children could be included in O/M.
Proof of Termination of Marriage of Child	If a child could be included in the O/M, is currently unmarried but was previously married, and the marriage terminated before the initial application was filed.
Social Security Benefit Data	If file indicates that spouse or children to be included in the O/M computation are receiving SS benefits.
Form G-208, Public Service Pension Questionnaire	When PSP of the spouse affects the computation.
NOTE 1: If the employee's annuity is increased under the "Spouse Election Procedure," refer to RCM 1.3 Appendix C.	
NOTE 2: If Forms G-319 and/or G-320 are developed but it is then determined that the retirement O/M is not payable, release Form Letter RL-300 as explained in RCM Part 11.	

If the forms requested above are not returned within 60 days, request the status of the Retirement O/M development from the RRB field office.

1.1.25 Eligibility For An Employee Annuity And A Spouse Annuity Or A Divorced Spouse Annuity

An individual may be simultaneously "entitled" to an employee annuity on his or her own earnings record and a spouse/divorced spouse annuity on a different railroad earnings record. The individual must file an annuity application on each RRB claim number to become "entitled" to each of these annuities. Further instructions for headquarters processing are contained in RCM 8.1 Appendix H, "Handling of Dual Entitlement Cases."

There is no reduction in the employee annuity for simultaneous entitlement to a spouse annuity or a divorced spouse annuity on the different RRB claim number. However, the spouse annuity or divorced spouse annuity will need to be adjusted for the simultaneous entitlement to an employee annuity.

A. RASI Processing of Annuity - The field is instructed to enter an IMPACT rate for the employee annuity or a SPAR rate for the spouse annuity as follows:

1. Simultaneous Filing - If the applicant is simultaneously filing for both the employee annuity on his own RRB earnings record and the spouse annuity on a different RRB claim number and:
 - a. Railroad Service Before 1975 - If either earnings record has railroad service before 1975, the RRB field office is instructed to enter an IMPACT rate and a SPAR rate (adjusted for the own employee annuity).
 - b. No Railroad Service Before 1975 - If neither earnings record has railroad service before 1975, the RRB field office is instructed to enter an IMPACT rate, but not to enter a SPAR rate.

For either a. or b. above, RASI will establish a manual OP code "034" for the employee annuity. This will prevent final payment of the employee annuity until the manual OP code is cleared, as explained in RCM 9.2, but will not zero out any IMPACT rate entered by the RRB field office. RASI will establish a 953 call-up #407 for the spouse annuity. This will prevent final payment of the spouse annuity until the call-up is cleared as explained in RCM 9.2, but will not zero out any SPAR rate entered by the RRB field office. BRB should process the case at Headquarters under procedures for "Handling of Dual Entitlement Cases" in RCM 8.1 Appendix H.

2. Spouse/Divorced Spouse Annuity in Pay Status - If the spouse/divorced spouse annuity on a different RRB claim number is in pay status when the applicant files for the employee annuity on his or her own earnings record, the RRB field office is instructed not to enter an IMPACT rate.

RASI will set a manual OP "034". This will prevent final payment of the employee annuity until the call-up is cleared as explained in RCM 9.2, but will not zero out any IMPACT rate erroneously entered by the RRB field office. BRB should process the case at Headquarters under procedures for " Handling of Dual Entitlement Cases" in RCM 8.1 Appendix H.

If any overpayment in the spouse annuity is to be recovered from the accrual for the employee annuity, the case must be dumped from RASI and paid on the Retirement On-line Calculation (ROC) program.

B. Reduction to Spouse Annuity - The reduction to the spouse annuity for the dual entitlement is explained in RCM 1.3.11.

C. Reduction to Divorced Spouse Annuity - A divorced spouse annuity on the different RRB claim number (which is Tier 1 only) is reduced by the full amount of

the employee annuity on his or her own earnings record, as explained in RCM 1.3.91. There is no restoration of the reduction amount.

1.1.26 Eligibility For A Survivor Annuity And An Employee Annuity

An individual may be simultaneously "entitled" to an employee annuity on his or her own earnings record and a survivor annuity on a different railroad earnings record. The individual must file an annuity application on each claim number to become "entitled" to each of these annuities. Further instructions regarding headquarters processing are contained in RCM 8.1 Appendix H, "Handling of Dual Entitlement Cases."

There is no reduction in the employee annuity for simultaneous entitlement to a survivor annuity on the different RRB claim number. However, the survivor annuity will need to be adjusted for the simultaneous entitlement to an employee annuity.

A. RASI Processing of Employee Annuity - The field is instructed to enter an IMPACT rate for the employee annuity as follows:

1. Simultaneous Filing - If the applicant is simultaneously filing for both the employee annuity on his own RRB earnings record and the survivor annuity on a different RRB claim number, the RRB field office is instructed to enter an IMPACT rate.
2. Survivor Annuity in Pay Status - If the survivor annuity on a different RRB claim number is in pay status when the applicant files for the employee annuity on his own earnings record, the RRB field office is instructed not to enter an IMPACT rate.

For either 1 or 2 above, RASI will set a manual OP "034." This will prevent final payment of the employee annuity until the call-up is cleared as explained in RCM 9.2, but will not zero out any IMPACT rate entered by the RRB field office. BRB should process the case at Headquarters under procedures for "Handling of Dual Entitlement Cases" in RCM 8.1 Appendix H.

If any overpayment in the survivor annuity is to be recovered from the accrual for the employee annuity, the employee annuity application must be dumped from RASI and paid on the Retirement On-line Calculation (ROC) program.

B. Reduction to Survivor Annuity - There is a reduction in the survivor annuity on the different RRB claim number for "entitlement" to an employee annuity on his own earnings record:

1. Railroad Service Before 1975 - If either the survivor annuity on the different RRB claim number or the employee annuity on his or her own earnings record is based on any railroad service before 1975, the tier 1 portion of a widow(er)'s annuity or WCIA is reduced for the net tier 1 of an employee annuity. If either the employee or survivor had 10 or more years

of railroad service before 1975, a restoration amount may be included in the survivor tier 2 portion.

2. No Railroad Service Before 1975 - If neither the survivor annuity on the different RRB claim number nor the employee annuity on his or her own earnings record is based on any railroad service before 1975, (i.e., both annuities are based solely on service after 1974), the survivor total net annuity rate (tier 1 and tier 2) is reduced, but not below zero, by the amount of the employee annuity (tier 1 and tier 2). There is no restoration of the reduction amount:
 - a. If the employee annuity is higher, entitlement continues on the earnings record for the survivor annuity, even though the survivor annuity rate is zero. BSB will not deny the survivor annuity application. The survivor annuity must remain in a "suspended" or "constructive award" status with an annuity rate of "zero."
 - b. If the survivor annuity is higher, the survivor annuity rate will be the amount of the difference between the survivor annuity before adjustment for the employee annuity and the amount of the employee annuity.

1.1.30 Windfall Benefit Entitlement

Unlike the RR Act of 1937, the 1974 RR Act restricts the receipt of RR and SS benefits (dual benefits) by annuitants. Under the new law even though annuitants may be insured and entitled under both systems, they can qualify for the full amount of the dual benefits only if they are also "dually vested" as of 12-31-74 (or earlier in some cases). The vested annuitant will receive an additional annuity amount called a "windfall dual benefit" which is computed and added to the annuity computation. It is designed to simulate the additional amount that the employee would receive because of entitlement to both RR and SS benefits. Although it is not necessary for the employee to be on the rolls on 12-31-74 to be vested, more stringent vesting requirements must be met by employees who come on the rolls after that date.

Prior to the 1981 RR Act Amendments, annuitants could be vested for windfall benefits under their own wage record or they could be vested for auxiliary windfall benefits based on other than their own wage records.

However, the 1981 RR Act Amendments eliminated the auxiliary windfall benefits except when:

- the employee is awarded an annuity before August 13, 1981; and
- the employee meets all windfall requirements (including the attainment of age 62) before August 13, 1981; and

- the primary beneficiary, on whose record the auxiliary windfall is based, is insured and has filed at SSA before August 13, 1981.

(Based on L82-134, if an auxiliary windfall was erroneously denied prior to 8-13-81, it cannot be paid after 8-12-81, even if the error is discovered later.)

For example, if a female employee attains age 60 in April 1979, is awarded a 60/30 annuity in the same month, meets all entitlement requirements for an requirements for an SS benefit before August 13, 1981, the auxiliary windfall is effective beginning April 1981, the month she attains age 62. This holds true regardless of when the Board actually pays the windfall benefit.

1.1.31 Employee On The Rolls On 12-31-74 And Fully Insured On Own Wage Record

An employee on the rolls as of 12-31-74 who is either receiving SS benefits on that date, or who is fully insured under the SS Act as of that date, is considered vested, thereby preserving his rights to dual benefits.

An annuitant on the rolls of 12-31-74 who is transitionally insured under the SS Act is also entitled to a windfall dual benefit. This transitional benefit (is) treated in the same manner as an RIB based on a regular SS Act insured status.

An annuitant is transitionally insured if he attained age 72 prior to 1969 and is not insured at SSA under the regular rules, but has at least 3 quarters of coverage.

1.1.32 Employee On The Rolls After 12-31-74 And Fully Insured On Own Wage Record

An employee who was not on the rolls before 1-1-75 can only receive windfall dual benefits if he is vested under both the RR and SS Act on 12-31-74 (or earlier in some cases). An employee who has sufficient service and compensation to be fully insured under both systems, including a transitionally insured status, but who was not on the rolls before 1-1-75 can be vested in two different ways:

- A. The employee is vested if he has:
1. A fully insured status under the SS Act as of 12-31-74 (or a transitionally insured status under the SS Act as of 12-31-74);
- AND
2. At least 10 years of RR service as of 12-31-74.
- AND EITHER HAS:
- Some RR service in 1974;

OR

- A C/C on 12-31-74 or on his ABD;

OR

- At least 25 years of RR service as of 12-31-74.

EXAMPLE 1: The employee (DOB 6-13-13) last worked in the RR industry in 1962. At the time he had 27 years of RR service, but no insured status under the SS Act. He worked for an SS employer from 1962 to June 1975, when he retired and filed for both benefits. (He was insured for SS benefits by 12-31-74).

This employee is vested and, therefore, entitled to the windfall dual benefit because he had over 25 years of RR service and was insured under the SS Act as of 12-31-74.

EXAMPLE 2: The employee's DOB is 2-3-15. He retired under the 60/30 provision of the RR Act on 2-1-75 but need 26 QC's for a fully insured status under the SS Act at age 62. Therefore, he worked for an SS employer in April 1975 and became insured. However, because he was not insured under the SS Act on 12-31-74 he is not vested for windfall dual benefits.

B. If the employee has at least 10 years of RR service but less than 25 years of RR service as of 12-31-74, no RR service in 1974 and no C/C on 12-31-74 or on his ABD, he is vested if he has:

1. At least 10 years of RR service as of 12-31-74;

AND

2. A fully insured status under the SS Act by the end of the year before 1974 in which RR service was last performed by the employee.

EXAMPLE: The employee (DOB 7-14-14) last worked in the RR industry in 1964. At the time he had 23 years of RR service, but no insured status under the SS Act. He has been working for an SS employer since 1964 and plans to retire and file for both benefits in July 1969. (He was insured for SS benefits by 12-31-74.) He would not be vested since he had less than 25 years of RR service as of 12-31-74 he had no C/C on 12-31-74 or his ABD, he did not perform RR service in 1974 and he did not have an SS insured status in 1964, the last year in which he performed RR service.

(NOTE: If an employee was previously entitled to a 1937 Act disability annuity which terminated after January 1975 due to his recovery, met the RRB/DIB WF requirements at conversion, and was entitled to an annuity in December 1974 and January 1975, his RIB/DIB WF entitlement may be preserved. See RCM 1.2.406 for an explanation of preservation of WF entitlement.)

1.1.33 When The Windfall Benefit Is Payable

The windfall amount becomes payable to the annuitant at the earliest point at which he would be eligible for an SS benefit or on his ABD, whichever is later.

The earliest point at which the annuitant would be eligible for an SS benefit is:

- A. (Any age if he is eligible for DIB at SSA (See RCM 1.2.404A.)
- B. (Age 62 if he is eligible for a reduced RIB (since 60/30 cases are deemed age 65 on the ABD, they are eligible for a full RIB at age 62.)

Effective September 1, 1981, the earliest date a reduced RIB can begin is the first day of the month after the month in which the employee's 62nd birthday falls, unless his birthday is either the first or second day of the month. If his birthday is on the first or second day of the month the RIB will be payable from the first day of that month.

EXAMPLE 1: Mr. Smith was born October 10, 1919. He files on October 10, 1981 for his RIB and meets all eligibility requirements. His RIB date of entitlement is November 1, 1981.

EXAMPLE 2: Mr. Jones was born October 2, 1919. He files on October 10, 1981 for his RIB and meets all eligibility requirements. His RIB date of entitlement is October 1, 1981.

(The Monthly Attainment Processing (MAP) program will release a diary card in cases on the rolls where the employee's RIB windfall date of entitlement has been entered into the Research record to alert the examiner to the need to pay the employee a RIB windfall when the employee attains age 62 and:

- Is receiving a 60/30 annuity; or
- Is receiving a disability annuity and was not entitled to a DIB windfall.

The referral message will read "ANN-SP 62 OR SP 65 TEST FOR O/M AND WF." Upon receipt of this referral, examine the folder to determine if the RIB windfall is payable and/or if the annuity could be paid under the O/M formula as explained in section 1.1.12.)

1.1.34 When Entitlement Ends

When dual benefit payments end with the earlier of the following dates:

- The last day of the month before the month in which the employee dies; or

- The last day of the month before the month of termination of entitlement to a DIB or a wife's, husband's, mother's or widow(er)'s benefit under the SS Act.

1.1.35 1974 RR Act Work Deductions Applied To The Windfall Dual Benefit

In most cases, the entire windfall dual benefit is subject to work deductions for excess earnings. However, the only work deduction amount that will be applied to the windfall benefit is the amount that cannot be recovered from tier I.

1.1.36 Cost-Of-Living Increases

Windfall dual benefits will be frozen at the 1974 benefit levels. However, they will be increased by any SS Act cost-of-living increases effective between 12-31-74 and the employee's ABD. Windfalls that begin to accrue June 1, 1981 or later will have a cost-of-living increase frozen at 81%.

Appendices

Appendix A - Age and Service Annuity Legislative History

<u>Effective Date</u>	<u>Age and Service Employee Provisions</u>
06-24-1937	Full age and service annuity (A&S) at age 65 with any amount of service. Reduced A&SA at age 60 with 30 years of service.
01-01-1947	Full A&SA at age 60 for female employees with 30 years service.
11-01-1951	10-year minimum service requirement. Retirement O/M computation at age 62 for female employees.
11-01-1956	Reduced Retirement O/M computation at age 62 for female employees.
06-01-1959	Reduced A&SA at age 62 for female employees with less than 30 years of service.
08-01-1961	Reduced O/M computation at age 62 for male employees.
10-01-1961	Reduced A&SA at age 62 for male employees with less than 30 years of service.
07-01-1974	Full A&SA at age 60 for men with 30 years of service.
01-01-1975	Tiered annuity computation under the 1974 Railroad Retirement Act. Work deductions applied to portions of an A&SA if there is a

<u>Effective Date</u>	<u>Age and Service Employee Provisions</u>
	work deduction insured status and excess earnings. Work deductions no longer apply when the annuitant attains age 72.
01-01-1978	In work deduction computations, non-work months are considered only in the first year after 1977 in which the beneficiary is entitled to an annuity.
08-13-1981	Elimination of employee auxiliary vested dual benefits.
09-01-1981	Tier I and the VDB may not begin before the first <u>full</u> month the employee is age 62.
06-01-1982	Retroactivity of application limited for tier I.
01-01-1983	Work deductions no longer apply when the annuitant attains age 70.
09-01-1983	Retroactivity of tier I, tier 2, and the VDB is limited for applications filed 9-1-83 or later.
07-01-1984	Employees who receive a 60/30 annuity with an ABD at age 60-61 will have an age reduction if they either attained age 60 or acquired their 360 month of railroad service after June 30, 1984.
01-01-1986	Noncovered service pension reduction in PIA 1 and PIA 9.
12-01-1988	Last pre-retirement non-railroad employment (LPE) permitted after ABD with earnings deductions in tier 2 and supplemental annuity.
12-01-1988	RRA credit for voluntary military service between 6-15-48 and 12-15-50.
1-01-2001	Definition of "full retirement age" gradually changes from age 65 to age 67 for employees born after 1937.
1-1-2002	Age reduction no longer applies for an employee who receives a 60/30 annuity with an ABD at age 60-61, provided the ABD is January 1, 2002, or later.
1-1-2002	Railroad Retirement and Survivor's Improvement Act of 2001 removed the Railroad Retirement Maximum provision from the Railroad Retirement Act. Any reductions to the employee annuities in pay status were removed effective from 1-1-2002.
1-1-2002	Employee may qualify for an annuity at age 62 based on less than 120 months of railroad service, but at least 60 months of railroad service after 1995.

<u>Effective Date</u>	<u>Age and Service Employee Provisions</u>
	Tier 1 is payable only when the age and service employee has sufficient quarters of coverage based on combined railroad compensation and SSA wages for an insured status under the SS Act.
1-1-2002	Employer tier 2 tax based on Account Benefits Ratio. Amendments also expanded investment options for the Railroad Retirement Account.

Appendix C - Aux VDB Benefit Entitlement Prior to 1981 Amendments

C1. Auxiliary Vested Dual Benefit (VDB) Entitlement Prior To 1981 Amendments (P.L. 97-35)

Public Law 97-35 eliminated the payment of auxiliary vested dual benefits to employees if the benefit was not authorized for payment as of Aug 13, 1981. This appendix explains entitlement requirements to auxiliary vested dual benefits as they were prior to the enactment of P.L. 97-35.

C2. Employee On The Rolls On 12-31-74

An employee who is entitled to a wife's, husband's, widow's or widower's, or parent's benefit at SSA on December 31, 1974 or is the wife, widow, dependent husband, or dependent widower of a person who was fully insured under the Social Security Act on December 31, 1974 is also vested for a vested dual benefit. However, if the employee is the wife or dependent husband of an insured person, that person must have filed for an RIB/DIB before a vested dual benefit amount can be computed for the employee.

See sec. C3 for a definition of the terms wife, husband, widow and widower and for instruction on developing proofs.

NOTE 1: If an employee filed an application before 1-1-75 and had a beginning date before 1-1-75 he is considered to be on the rolls on 12-31-74, even though his annuity may not have been awarded until after that date.

NOTE 2: A non-dependent male employee is not entitled to a vested dual benefit on his wife's wage record.

A female employee who is entitled to a wife's transitional benefit under the SS Act is also entitled to a vested dual benefit. This transitional wife's benefit is treated in the same manner as a wife's benefit based on the wage record of her husband who is insured under the regular provisions.

A female employee annuitant can get a wife's transitional benefit if her husband is transitionally insured and she also attained age 72 before 1969.

C3. Employee On The Rolls After 12-31-74 And Eligible For An SS Benefit On Other Than Own Wage Record

An employee who was not on the rolls before 1-1-75 and who was not fully insured under the SS Act as of 12-31-74 based on his own wage record can only receive vested dual benefits if (s)he meets the RR requirements and is the wife, widow, dependent husband, or dependent widower of a person who was fully insured under the SS Act as of 12-31-74. In addition, if the employee is the wife or dependent husband of the fully insured person, that person must have filed for an SS benefit for the employee to be eligible for an SS benefit on that wage record. Therefore, the vested dual benefit cannot be paid prior to the beginning date of the wage earner's RIB/DIB benefit.

NOTE: A non-dependent male employee cannot be vested based on his wife's wage record. The terms "wife" and "husband" are used as defined in RCM 1.3.1 - 1.3.3 and "widow" or "widower" as defined in RCM 2.1.1 - 2.1.3. The terms "wife" and "widow" under the SS Act also include divorced wives (except when eligibility for a transitional wife's benefit is involved) and surviving divorced wives, respectively. To be eligible as of 12-31-74 the "wife" or "widow" must be finally divorced from the WE or deceased WE and have been married to him for a period of at least 20 years immediately before the date the divorce became final.

Before paying the VDB based on the employee's status as the spouse or widow(er) of an insured person, it is necessary to develop proof of marriage, proof of death, and any other evidence needed to award a spouse or widow(er) SS benefit. Living-with is not a requirement for the payment of a spouse SS benefit.

Normally, if an SS benefit is being paid, it is safe to assume that the necessary proofs were developed at SSA. The VDB can be paid from the SS DOE without further development action. However, if a divorced wife's or widow's SS benefit is being paid from 1-1-79 or later, develop evidence showing the date of marriage and date the divorce became final. Although a divorced wife's or widow's SS benefit can be paid effective 1-1-79 or later if she was married to the WE or deceased WE for only 10 years, the marriage must have lasted for 20 years in order to pay a divorced wife's or widow's vested dual benefit. This is because 20 years of marriage was a requirement for paying a divorced wife's or widow's benefit on 12/31/74.

The employee can be entitled to a vested dual benefit in 2 different ways:

- A. The employee is entitled to a vested dual benefit if (s)he:
 1. Is the wife, widow, dependent husband, or dependent widower of a person who is fully insured under the SS Act as of 12-31-74;

OR

Is eligible for a transitional wife's benefit under the SS Act as of 12-31-74;

2. Has at least 10 years of RR service as of 12-31-74.

AND EITHER HAS:

- Some RR service in 1974;

OR

- A C/C on 12-31-74 or on his ABD;

OR

- At least 25 years of RR service as of 12-31-74.

- B. If the employee has at least 10 years of RR service but less than 25 years of RR service as of 12-31-74, no RR service in 1974 and no C/C on 12-31-74 or on his ABD, the employee is vested if (s)he:
 1. Has at least 10 years of service as of 12-31-74;

AND

2. Is the wife, widow or dependent husband or widower of a person who was fully insured under the SS Act by the end of the year before 1974 in which RR service was last performed by the employee.

If the annuitant is entitled to a vested dual benefit because (s)he is the wife or dependent husband of a person who is fully insured under the SS Act as of 12-31-74 (or earlier in some cases), that person must be entitled to an RIB or DIB for the annuitant to be eligible for an SS benefit. Therefore, the vested dual benefit cannot be paid prior to the DOE of the wage earner's SS benefit.

The earliest point at which the annuitant would be eligible for an SS benefit based on someone else's wage record is:

- Age 62 if (s)he is eligible for a wife's or husband's benefit at SSA.
- Age 60 if (s)he is eligible for a widow(er) or remarried widow(er)'s benefit at SSA.
- Age 50 if (s)he is eligible for a disabled widow(er)'s benefit at SSA.

- Any age if she is eligible for a mother's insurance benefit based on having in her care a child entitled to child's insurance benefit on her husband's or deceased husband's E/R at SSA.

NOTE: If the wage earner is a deceased RR employee and RRB has jurisdiction of survivor benefits, SSA would not pay a benefit on the same wage record. Therefore, no widow(er)'s VDB is payable to the employee based on that wage record.

C4. One-Half Support Requirement For Husbands And Widowers

A male employee can receive a vested dual benefit as the husband or widower of person insured under SSA Act only if he meets the one-half support requirement under SS Act rules (see SSCM 2628). DO NOT use the one-half support rules outlined in RCM Chapter 4.7 since those rules are not the same as SS Act rules.

The vested dual benefit is calculated using the benefit to which the husband or widower would have been entitled under the SS Act on 12-31-74. Since 1/2 support was a requirement for paying husband's and widower's benefits as of December 31, 1974 the vested dual benefit cannot be paid to employees who do not meet the one-half support requirement.

The point at which the one-half support requirement must be met is:

- At the beginning of the wage earner's period of disability, or
- At the time the wage earner became entitled to an RIB, or
- At the time the wage earner became entitled to a DIB, or
- At the time the wage earner died.

Proof of support must be filed within two years after the point at which the support requirement must be met unless "good cause" can be established per SSCM 2634.

When SSA is paying the employee a husband/widower benefit, ask SSA if dependency was established. If so, request copies of SSA's proof(s) used to establish one-half support and handle the case accordingly.

Establish the DOE of a husband/widower VDB as shown in sec. 1.1.33. However, the DOE cannot be prior to the date the one-half support requirement is met.

EXAMPLE: The employee's wife is entitled to a DIB effective 11-1-73 based on a period of disability beginning 5-1-73. She attains age 65 in 2-1978. In this case, the support requirement can be met on 5-1-73, 11-1-73, or 2-1-78 (when the DIB is switched to an RIB.) If the employee has not filed proof of support by 11-1975 (two years after the DIB entitlement date), he can still become entitled to a VDB effective

2-1-78 if the one-half support requirement is met on that date and the employee files proof of support by 2-1-80.

NOTE: If the employee submits proof that is not sufficient to establish one-half support under SS Act rules, prepare a formal denial letter on an AB-25 back. The decision that he does not meet the support requirement is an initial decision, and therefore, may be appealed.

C5. When Entitlement Ends

Vested dual benefit payments end with the earliest of the following dates:

- The last day of the month before the month in which the employee dies;
- The last day of the month before the month of termination of entitlement to a wife's, husband's, mother's, or widow(er)'s benefit under the SS Act.*

*Note: The vested dual benefit is not terminated when one SS benefit is terminated because the annuitant becomes entitled to a new type of SS benefit (e.g., from a wife's to a widow's benefit, from a widow's to a remarried widow's benefit, etc.) since the annuitant is still eligible for an SS benefit. However, if there is a change in the type of SS benefit, the vested dual benefit must be recomputed if the SS benefit rate changes.

