

1040.5 Retirement Overall Minimum (O/M) Provision Of The 1937 RR Act

The overall minimum (O/M) provision of the 1937 Railroad Retirement Act guaranteed that the total annuities payable to an employee and his family under the 1937 RR Act would not be less than 110% of the amount which would have been payable under the Social Security Act if railroad service after 1936 were credited as employment under that act.

To be entitled to this O/M computation, the employee must have filed an annuity application and have an ABD before 1-1-75.

These benefits were converted to 1974 Act rates effective 1-1-75.

1040.10 O/M Provisions of The 1974 RR Act

- A. 110% Grandfather O/M - The 110% Grandfather O/M provision of the 1974 RR Act guarantees that in cases where the employee's ABD is during the period from 1-1-75 through 12-31-82, the total monthly annuities (including any supplemental annuity payable before age 65 but excluding any vested dual benefit) payable to an employee and his family will not be less than the total amount that would be payable under the O/M provision of the 1937 RR Act.

To be entitled to this O/M computation, the employee must have filed an annuity application or have an ABD after 12-31-74.

The employee's service and earnings after 1974 can be included in the computation of the 110% Grandfather O/M PIA (PIA #11). However, the maximum creditable yearly earnings for years after 1974 are frozen at the 1974 maximum. PIA #11 cannot be recomputed to include earnings after the employee's ABD, nor can it be increased for COL increases after 1974.

- B. 100% O/M - The 100% O/M provision of the 1974 RR Act guarantees that the total monthly benefits payable (including any vested dual benefit, but excluding the supplemental annuity) to an employee and his family will not be less than the monthly amount which would be payable under the SS Act if railroad service after 1936 were credited as employment under that act.

To be entitled to this O/M computation, the employee must have filed an annuity application or have an ABD after 12-31-74.

The current PIA based on combined wages and compensation (PIA #9) is used for this computation. PIA #9 is subject to increases for COLs and recomputation for earnings after the employee's ABD.

1040.15 Basic Type Of Retirement O/M

There are three basic types of O/M payments possible under the 110% and 100% O/M depending upon the employee's status. A divorced spouse can be included in the O/M only if she is entitled to a divorced spouse's annuity.

- A. Full O/M - The employee may be entitled to the full age and service O/M if (s)he has attained age 65 on or before the O/M effective date.

The share attributable to a spouse (without a child in care) or a divorced spouse annuitant (effective 10-1-81 or later), would be subject to an age reduction if (s)he is age 62-64 11/12 on the date (s)he is included in the O/M computation.

- B. Reduced O/M - The employee may be entitled to a reduced age and service O/M computation if (s)he has attained age 62, but not age 65 on or before the O/M effective date.

The share attributable to a spouse (without a child in care) or a divorced spouse annuitant (effective 10-1-81 or later), would be subject to an age reduction if (s)he is age 62-64 11/12 on the date (s)he is included in the O/M computation.

In the case of a disabled employee, who is age 62-64 11/12, the age reduced O/M may produce a higher rate than the DIB O/M. This is true because the TRANS PIA may be used and because the A&S O/M maximum may be higher than the DIB O/M maximum.

- C. DIB O/M - The DIB O/M can be paid to an employee with a DIB insured status at any age up to age 65 without an age reduction. At age 65, the DIB O/M is converted to a full age and service O/M.

The share attributable to a spouse (without a child in care) would be subject to an age reduction if (s)he is age 62-64 11/12 on the date (s)he is included in the O/M computation.

NOTE: A divorced spouse cannot be included in the DIB O/M based on a "child in care." The employee must be age 62 before a divorced spouse annuitant age 62 or over can be included in the DIB O/M.

1040.20 Basic O/M Computation

- A. The first step in determining the O/M amount is to select the proper PIA.
1. 1974 Act 100% O/M - The PIA to be used is the highest applicable PIA from the following list at the current COL increase level:
 - AMW PIA #9 - If the employee attained age 62 before 1979;

- TRANS PIA #9 - If the employee attains age 62 after 1978, but before 1984, and an age and service O/M rate is being computed;
 - AIME PIA #9 - If the employee attains age 62 after 1978 and the AIME PIA is higher than the TRANS PIA or if a DIB O/M rate is being computed.
2. 1974 Act 110% O/M - The PIA to be used is the 6/74 AMW PIA #11.
 3. 1937 Act 110% O/M - The 6/74 AMW PIA #11 is used until the current AMW PIA #9 produces a higher 100% O/M rate.
- B. The second step in determining the O/M amount is to select the proper SSA family maximum.
1. Age and Service O/M
 - If an AMW PIA applies, the SSA family maximum which corresponds to that PIA will be used. In 1974 Act 110% O/M cases, the 6/74 SSA family maximum is used.
 - If an AIME or TRANS PIA applies, the SSA family maximum is computed in accordance with the formula in effect in the year the employee attained age 62. Any subsequent COL increases are added.
 2. DIB O/M - Prior to the 1980 SS Act Disability Amendments, the computation of the family maximum was the same for both age and service and disability cases.

The SSA family maximum is determined based upon the eligibility year (benchmark year) regardless of the date of filing. When the date of entitlement is on or after the tier I cost-of-living increase effective date in the eligibility year, a cost-of-living percentage increase is applied to the initial Family Maximum Benefit amount. Subsequent COL percentage increases are payable from the benchmark year.

The SSA family maximum for disability annuitants whose first eligibility year is after 1978 and whose first month of entitlement to the DIB O/M is July 1980 or later is limited as follows:

SUMMARY OF AIME DISABILITY FAMILY MAXIMUMS BEFORE COST OF LIVING INCREASES

DIB FAM MAX BASED ON 100% AIME PIA	DIB FAM MAX BASED ON 85% OF AIME	DIB FAM MAX BASED ON 150% OF AIME PIA
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Elig Year	AIME PIA Before COL	AIME PIA Before COL		AIME PIA Before COL
	Under	From	Through	Over
1984	\$248.60	\$248.60	\$355.50	\$355.50
1985	260.60	260.60	372.90	372.90
1986	276.50	276.50	395.60	395.60
1987	288.60	288.60	412.70	412.70
1988	297.00	297.00	425.00	425.00
1989	315.34	315.30	451.60	451.60

SUMMARY OF AIME DISABILITY FAMILY MAXIMUMS BEFORE COST OF LIVING INCREASES

Elig Year	DIB FAM MAX BASED ON 100% AIME PIA AIME PIA Before COL	DIB FAM MAX BASED ON 85% OF AIME AIME PIA Before COL		DIB FAM MAX BASED ON 150% OF AIME PIA AIME PIA Before COL
	Under	From	Through	Over
1990	\$331.20	\$331.20	\$474.30	\$474.30
1991	344.20	334.20	493.00	493.00
1992	360.10	360.10	515.30	515.30
1993	373.00	373.00	534.00	534.00
1994	392.60	392.60	562.20	562.20
1995	396.50	396.50	567.40	567.40

SUMMARY OF AIME DISABILITY FAMILY MAXIMUMS BEFORE COST OF LIVING INCREASES

DIB FAM MAX	DIB FAM MAX BASED ON 85%	DIB FAM MAX
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	BASED ON 100% AIME PIA AIME PIA Before COL	OF AIME AIME PIA Before COL		BASED ON 150% OF AIME PIA AIME PIA Before COL
Elig Year	Under	From	Through	Over
1996	\$406.70	\$406.70	\$582.10	\$582.10
1997	423.30	423.30	605.90	605.90
1998	443.70	443.70	635.30	635.30
1999	469.80	469.80	673.00	673.00
2000	494.20	494.20	707.30	707.30
2001	532.70	532.70	747.40	747.40
2002	550.70	550.70	788.40	788.40
2003	563.90	563.90	807.10	807.10
2004	569.30	569.30	815.40	815.40
2005	583.50	583.50	835.30	835.30
2006	610.20	610.20	874.20	874.20
2007	633.30	633.30	949.20	949.20
2008	647.90	647.90	971.10	971.10
2009	685.40	685.40	1,027.40	1,027.40
2010	701.10	701.10	1,050.90	1,050.90

C. The third step in determining the O/M amount is to compute the benefit each beneficiary would receive under the SS Act.

1. The employee's SS formula benefit is computed as follows:

- The dollar amount of any delayed retirement credits is added to the employee's PIA;
- If the employee is under age 65 on the effective date of the age and service O/M, the previous rate is reduced by 1/180 for every month he

is under age 65. Effective January 1978, the age reduction months remain constant on subsequent awards. Effective September 1981 or later, the age reduction amount is rounded up to the nearest \$0.10;

- If the employee is entitled to social security benefits:
 - 100% O/M - the amount of the current social security benefit, after any reduction for worker's compensation, public disability benefit or age is subtracted from the previous rate;
 - 110% O/M - 110% of the amount of the 12/74 social security benefit, after any reduction for worker's compensation, public disability benefit or age is subtracted from the previous rate.
- The result of the previous steps is the employee's SS formula benefit. Effective September 1981 or later, the SS formula benefit is rounded down to the nearest \$1.00.

2. The spouse's SS formula benefit is computed as follows:

- The spouse's original benefit is 50% of the employee's PIA;
- The spouse's original rate must be reduced for the family maximum if the sum of the employee's PIA, the spouse's original rate and the child(ren)'s original rate(s) exceed the SSA family maximum. In such cases the spouse's and such child's original rates are equal shares of the difference between the SSA maximum and the employee's PIA. A divorced spouse's entitlement is not considered in computing family maximum;
- If a spouse (without a child in care) is under age 65 on the date (s)he is included in the O/M, the previous rate is reduced by 1/144 for every month (s)he is under age 65. Effective January 1978, the age reduction months remain constant on subsequent awards. Effective September 1981 or later, the age reduction amount is rounded up to the nearest \$0.10;
- If the spouse is entitled to a public service pension (PSP) based on the spouse's own earnings payable to the spouse, her O/M is subject to reduction. The reduction does not apply, however, if social security (FICA) taxes were deducted from her government earnings on the last day of her government employment and/or the spouse filed for and became entitled to an annuity before 12-1-77:

- **Beginning:** **The reduction applies to:**

- 12-1-77 Non-dependent husbands;
- 12-1-82 Non-dependent wives first eligible for a PSP 12-1-82 or later.

Note: A non-dependent wife who would have been eligible for a PSP before December 1982, except for a requirement which postponed eligibility for the PSP until the month after the month in which all other requirements were met, is exempt from the offset beginning December 1984.

- 7-1-83 All spouses first eligible for a PSP 7-1-83 or later.

Note: A spouse who would have been eligible for a PSP before July 1983 except for a requirement which postponed eligibility for the PSP until the month after the month in which all other requirements were met is exempt from the offset -676- beginning December 1984.

- The amount of the reduction is equal to:
 - 100% of the PSP for months before December 1984 if the spouse is first eligible for the PSP before 7-1-83. 66 2/3% of the PSP beginning in December 1984;
 - 66 2/3% of the PSP if the spouse is first eligible for the PSP 7-1-83 or later.
- If (s)he is entitled to a social security benefit:
 - 100% O/M - The amount of the current SS benefit is subtracted from the previous rate.

NOTE: If the spouse is entitled to a DIB that is reduced for worker's compensation or public disability benefits, the amount of the SS offset will be determined on a case by case basis. If a worker's compensation or public disability offset is being applied to the spouse's SS benefit which is based on someone other than the RR employee's or the spouse's own earnings record, the amount of the SS off-set is the SS rate after reduction for worker's compensation or public disability benefits.

- 110% O/M - 100% of a fictitious 6/74 SS benefit is subtracted from the previous rate. Earnings after 1974, but not in this excess of the 1974 maximum, are used in computing this fictitious SS benefit.

NOTE: If the spouse is entitled to a DIB that is reduced for worker's compensation or public disability benefits, the amount of the SS offset will be determined on a case by case basis. If a worker's compensation or public disability offset is being applied to the spouse's SS benefit which is based on someone other than the RR employee's or the spouse's own earnings record, the amount of the SS offset is the SS rate after reduction for worker's compensation or public disability benefits.

Effective September 1981 or later, the SS formula benefit is rounded down to the nearest \$1.00.

3. The divorced spouse's SS formula benefit is computed as follows:

- The divorced spouse's original benefit is 50% of the employee's PIA;
- The divorced spouse's original rate is not reduced for the family maximum nor is the rate considered in computing the family maximum;
- The divorced spouse's O/M share is subject to reduction for entitlement to a public service pension (PSP) based on the divorced spouse's own earnings payable to the divorced spouse. The reduction does not apply, however, if social security (FICA) taxes were deducted from her government earnings on the last day of her government employment:

- **Beginning: The reduction applies to:**

12-1-77 Divorced wives married to the employee less than 20 years and divorced husbands.

Note: If the divorced spouse is dependent on the employee and first eligible for the PSP before 7-1-83, a current PSP reduction will be removed beginning 12-1-82 or no offset will be applied.

12-1-82 Divorced wives married to the employee 20 years or more first eligible for a PSP 12-1-82 or later.

Note: If the divorced spouse is dependent on the employee and first eligible for a PSP before 7-1-83, a current PSP reduction will be removed beginning 12-1-82 or no offset will be applied.

7-1-83 All divorced spouses' first eligible for a PSP 7-1-83 or later.

- The amount of the reduction is equal to:

- 100% of the PSP if the divorced spouse is first eligible for the PSP before 7-1-83.
- 66 2/3% of the PSP if the divorced spouse is first eligible for the PSP 7-1-83 or later.
- 110% O/M - 100% of a fictitious 6/74 SS benefit is subtracted from the previous rate. Earnings after 1974, but not in excess of the 1974 maximum, are used in computing this fictitious SS benefit.

Effective September 1981 or later, the SS formula benefit is rounded down to the nearest \$1.00.

4. The child's SS formula benefit is computed as follows:

- The child's original benefit is 50% of the employee's O/M PIA;
- The child's original rate must be reduced for the family maximum if the sum of the employee's O/M PIA, the spouse's original rate, and the child(ren)'s original rate(s) exceed the SSA family maximum. In such case, each child's and the spouse's original rates are equal shares of the difference between the SSA maximum and the employee's O/M PIA. A divorced spouse's entitlement is not considered in computing the family maximum;
- If the child is entitled to social security benefits:
 - 100% O/M - The amount of the current SS benefit is subtracted from the previous rate;
 - 110% O/M - 100% of the 6/74 SS benefit is subtracted from the previous rate.

Effective September 1981 or later, the SS formula benefit is rounded down to the nearest \$1.00.

5. The employee's, spouse's, divorced spouse's and child(ren)'s O/M benefits are totaled.
6. If the 110% O/M applies, the family total is increased by 10% of the total family benefits before offset for other benefits.
7. If the employee and/or the spouse received a reduced age and service annuity for any month(s) before the effective date of the O/M, the family's O/M total must be reduced.

- The employee's RR annuity rate is reduced by 1/180 times the number of months he received a reduced annuity;
 - The spouse's RR annuity rate is reduced by 1/180 times the number of months (s)he received a reduced annuity, if her spouse annuity was initially awarded prior to 10-1-81;
 - The spouse's RR annuity rate is reduced by 1/144 times the number of months (s)he received a reduced annuity, if her spouse annuity was initially awarded after 9-30-81;
 - The sum of the above reductions is subtracted from the family O/M total.
8. Reduction for RR Act survivor annuity - If the employee is entitled to a widow(er)'s insurance annuity, a reduction must be made for entitlement to the survivor annuity:
- When the employee annuity is initially awarded under the 1974 RR Act, the amount of the reduction is determined on a case to case basis;
 - When the employee annuity was initially awarded under the 1937 RR Act, the reduction is equal to the difference between the survivor's O/M rate and the survivor's RR rate.
9. Worker's Compensation and Public Disability Pension Offset - An offset for WC or public disability benefits may be applied to the DIB O/M. The reduction is first applied to the spouse's and/or divorced spouse's O/M share (in equal amounts if both are entitled), then to the employee's O/M share. The WC reduction does not apply to a retirement age and service annuity, even if the employee has a disability freeze (DF).
- a. Annuity beginning date 9-1-81 or later - These conditions will apply if the employee does not have a DF or if the DF begins 3-2-81 or later. The effect of a DF before 3-2-81 has not been determined.
- Public disability benefit offset - The DIB O/M is reduced for entitlement to a worker's compensation payment and/or a public disability benefit. If there is entitlement to both WC and a public disability benefit, the total of both benefits is used to compute the DIB O/M reduction;
 - Effective date of reduction - The date that we receive notice of entitlement to WC or public disability benefits does not affect the DIB O/M reduction. The DIB O/M is reduced in any month the offset applies, regardless of the date the RRB is informed of the entitlement to WC or public disability benefits;

- Offset removed at age 65 - Offset for WC or public disability benefits no longer applies beginning the month the employee attains age 65.
- b. Annuity beginning date before 9-1-81 - These conditions apply if the employee does not have a DF or if the DF begins before 3-2-81. The effect of a DF 3-2-81 or later has not been determined.
- Only WC reduction - There is no reduction for a public disability benefit. The DIB O/M may be reduced only for entitlement to WC payments;
 - No reduction before notice received - The DIB O/M reduction for WC is not effective until the month after the month in which the RRB receives notice of the WC entitlement;
 - Offset removed at age 62 - Offset for WC no longer applies beginning the month the employee attains age 62.
- c. Formula for offset - The WC offset only applies if the sum of the WC and/or public disability benefit plus the total family shares is more than 80% of the employee's average current earnings (ACE). If the earnings used in computing the ACE are sufficiently high, there is no reduction, even if the employee is receiving WC benefits.

The following formula is used to determine the amount of the WC offset, which is then deducted from the spouse/divorced spouse's O/M share and the employee's O/M share:

O/M total + WC/public disability benefit

-Higher of O/M total or 80% of ACE

WC/public disability benefit offset

Definitions of terms used in formula:

- O/M total - The O/M total is the total of the O/M shares employee, spouse and/or divorced spouse payable in the first month of reduction for WC/public benefit. The gross O/M share is used, before any reduction.

If the family composition changes after the first reduction month, the O/M total is recomputed as if the annuitants to be included were entitled in the first month of reduction for WC/public disability benefit.

- WC/public disability benefit amount - The actual monthly rate is used for offset if the WC/public disability benefit amount is verified. If the employee does not submit evidence of the amount, such as an award letter, the maximum WC payable in the state of the employee's residence will be used for reduction, if it is higher than the amount claimed by the employee.

The offset:

- Equals the WC/public disability benefit if the O/M total is higher than 80% of the ACE;
- Is less than the WC/public disability benefit if 80% of the ACE is higher than the O/M total;
- Equals zero if the O/M total plus the WC/public disability benefit is lower than 80% of the ACE;
- Is never greater than the amount of the WC/public disability benefit.

The monthly rate is calculated if the benefit is paid weekly or biweekly. A lump-sum award is prorated to determine the monthly rate. Legal, medical and related expenses may be excluded from the WC amount if they were incurred in connection with the WC claim.

- d. Average Current Earnings (ACE) - The employee's earnings may determine whether the reduction for WC/public disability benefit applies, or the amount of a reduction. The ACE is the highest of the following amounts:
 - The AMW (average monthly wage) on which the employee's tier I PIA is based. If the tier I PIA is an AIME PIA instead of a table PIA, the employee's earnings are used to compute a fictitious AMW;
 - The average monthly earnings for the 5 consecutive years after 1950 with the highest earnings; or

- The average monthly earnings for the 1 calendar year of highest earnings in the period consisting of the year the annuity begins (or the DF year, if earlier) and the 5 preceding years.

The earnings used in the computation of the ACE under the first two options are not limited by the yearly maximum. The total actual earnings (RR compensation and SS wages) are used in computing the ACE, regardless of the yearly maximum.

10. If the spouse is not entitled to an annuity, the employee's annuity is increased to the O/M rate.
11. If the spouse is entitled to an annuity, the family's O/M rate is divided between the employee and the spouse.
 - 1974 RR Act 100% O/M - The employee receives 2/3 of the family's O/M rate; the spouse receives 1/3.
 - 1974 RR Act 110% O/M
 - No Social Security entitlement - The employee receives 2/3 of the family's O/M rate, the spouse receives 1/3;
 - Social Security Entitlement - The family's O/M rate is prorated according to the following formulae:

$$EE(T1 + T2)$$

$$EE(T1 + T2) + MA(T1 + T2) \times O/M \text{ rate} = EE's \text{ share}$$

$$O/M \text{ rate} - EE's \text{ share} = MA's \text{ share}$$

- 1937 Act 110% O/M - The family's O/M rate was prorated according to the following formulae:

$$EE \text{ RR rate}$$

$$EE \text{ RR rate} + MA \text{ RR rate} \times O/M \text{ rate} = EE's \text{ share}$$

O/M rate - EE's share = MA's share

- Conversion Case When 100% O/M Exceeds 110% O/M - The 110% O/M amount will continue to be prorated according to the rules for 1937 Act 110% O/M cases. The increase will be prorated according to the following formulae:

$$\frac{\text{EE (T1, T2 + VDB)}}{\text{EE (T1, T2 + VDB)} + \text{MA (T1, T2 + VDB)}} \times \text{O/M increase} = \text{share of}$$

of the increase

O/M increase - EE's share = MA's share of the increase

12. A divorced spouse's annuity is not increased under the O/M.