

305.5 Entitlement Requirements

To be entitled to an age and service annuity, an employee must:

- A. Be full retirement age (FRA) or over, and have at least 120 months of creditable railroad (RR) service or at least 60 months of RR service after 1995; or
- B. Be age 60 or over but less than FRA, and have at least 30 years of creditable RR service (60/30 provision). The annuity rate is unreduced if the employee attained age 60 and acquired 30 years of service before 7-1-84, or if the employee is at least age 62 on the annuity beginning date, or if the ABD is later than 12-31-2001.

Tier I of a 60/30 annuity may be reduced as follows, if the employee is under age 62 on the annuity beginning date and the annuity beginning date is prior to 1-1-2002:

- 1. A 10 percent reduction applies if the employee attains age 60 or acquires 30 years of service 7-1-84 through 12-31-85.
- 2. A 20 percent reduction applies if the employee attains age 60 or acquires 30 years of service 1-1-86 or later.

Tier II and the vested dual benefit are never reduced; or

- C. Be age 62 or over but less than FRA, and have at least 120 months of creditable RR service or at least 60 months of creditable RR service after 1995. The tier 1 is reduced for each month the employee is under FRA when the annuity begins; Tier 2 is reduced as follows:
 - 1. If the employee has railroad service before 8-12-1983, tier 2 is reduced for each month the employee is under age 65 when the annuity begins.
 - 2. If the employee does not have railroad service before 8-12-1983, tier 2 is reduced for each month the employee is under FRA when the annuity begins; and
- D. Cease all RR service; and
- E. Relinquish all rights to return to the service of employers under the Railroad Retirement Act (RRA); and
- F. File an application for an age and service annuity.

NOTE 1: For those whose annuity begins prior to 1-1-2000 and for those 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. More information on FRA and age reductions can also be found in FOM Article 10 Appendices G, H, and I.

NOTE 2: An employee who was previously awarded a disability annuity may qualify for an age and service annuity before FRA only if the disability annuity terminated because of a medical recovery from the disability before FRA.

305.10 Evidence Requirements

Appendix I

Evidence	When Required
Application (AA-1)	Always
Self-Employment Questionnaire (AA-4)	When the employee was self-employed in the 12 months preceding the application filing date, or in any period after leaving railroad service in cases in which S/E vs. LPE decision is needed for work deduction purposes.
Notice of Protection of Filing Date for Social Security Benefits (RR-8)	Used with the Application AA-1 only if the employee is eligible for security benefits, or will be eligible within 3 months, and he wishes to use the filing date of the Application AA-1 as the filing date of an application for social security benefits.
Criminal Activity Information	Verify applicant information about criminal activity with appropriate state correctional authorities. (See FOM1 150.30 for Criminal Activity procedures. See Appendix I of this article for a complete list of these authorities. See FOM1 1110.5.14 for how to handle earnings of incarcerated annuitants.).
Proof of Age	Always
Proof of Military Service	If the employee performed military service which could be creditable under either the RRA or the SSA.
Earnings Information Request (G-19F)	If the employee had pre-retirement non-railroad employment earnings and the ABD is in a prior year or the ABD is in the current year and the applicant has ceased the non-railroad work after the month of the ABD.

Notice of Retirement and Request for Service Needed for Eligibility (G-88A.2)	When a report of railroad service and tier II compensation for the lag period is required for eligibility .
Prior service (AA-15)	If the employee has less than 30 years of subsequent service and prior service was not previously established.
Application for Substitution of Payee (AA-5)	If a substitute payee is required.
Check List for Employee, and Divorced Spouse/Spouse Annuity and HIB Applications (G-230)	Always required for transmittal of an application.

305.15 Annuity Beginning Date

The employee annuity beginning date (ABD) is explained in [FOM1 111.10](#). Retroactivity of the annuity application is explained in [FOM1 112.5](#).

305.25 Selecting Type Of Annuity

305.25.1 60/30 Employee and Disability

When an employee who is at least age 60 and has 30 years of service applies for an annuity, it may be to his advantage to file for an A&SA even though he may be disabled. There are several factors to consider.

A. Annuity Considerations

1. Advantages for 60/30 - The 60/30 annuity can begin immediately. A waiting period must be applied to disability annuities that need not be applied to the 60/30 annuity.

Although tier I of a disability annuity may be reduced for entitlement to worker's compensation or a public disability benefit, no reduction applies to a 60/30 annuity, even if the annuitant has a DF.

2. Advantages for D/A - If retroactivity is a factor in determining an ABD, a disability annuity may be advantageous because the annuity may begin 12 months before the month the application is filed. A 60/30 annuity may begin only 6 months before the application filing date.

- B. IMPACT - The employee may be given the advantage of more immediate payment through IMPACT if he files for a 60/30 annuity. The IMPACT payment is not delayed by the development of medical evidence and the disability rating.
- C. Disability freeze - The employee may still receive the full benefit of having a disability freeze period by filing a Form AA-1d (Application for Determination of Employee Disability) when applying for an A&SA. If the medical evidence establishes that the beneficiary is disabled within the meaning of the Social Security Act, the main advantages are:
1. Earlier Medicare coverage, if he is under age 63 when the DF application is filed;
 2. Earlier eligibility for the vested dual benefit; and
 3. Possible annuity increase.
 4. Earlier social security equivalent benefit (SSEB) date of entitlement if the employee is under age 62 as of the later of (1) the ABD, and (2) the first day of the month following the disability freeze waiting period.

Any tier 1 payments made from this earlier SSEB date of entitlement and before age 62 will be taxed under what are more advantageous Federal income tax rules.

If the applicant is under FRA and is disabled when they file an application for a 60/30 annuity, you should also develop the Application AA-1d and medical evidence to establish a disability freeze.

- D. Coverage under GA-46000 - A 60/30 annuitant who has a disability freeze may qualify under the disability requirements of The Travelers National Early Retirement Major Medical Benefit Plan GA-46000. Applicants with questions about eligibility for GA-46000 should be instructed to contact either The Travelers Insurance Company or their union.
- E. Work deductions - If an applicant expects to work after his annuity is awarded, he should consider the effect of work restrictions. Applying for an A&SA may be more advantageous if an applicant expects to have regular earnings after his ABD. A disability annuity is not payable for any month in which an annuitant earns more than the monthly earnings amount in employment of any type ([FOM 1125.5.2](#)). An A&SA is subject to deductions for excess earnings. Both annuities are subject to deductions for last person service. Earnings deductions are discussed further in [FOM-I-305.30](#).

305.25.2 Military Service Required for 60/30 and for Vesting

If an employee has military service (M/S) that may be credited as compensation to give him 30 years of service, but would also give the employee a vested status if used as

wages, it will generally be to his advantage to use the M/S as compensation to make him eligible under the 60/30 provision. In making this determination, it is important to consider whether the M/S will make the employee eligible for a supplemental annuity or qualify the spouse for an annuity at an earlier age.

If the employee wants to use his M/S as compensation to give him 30 years, he should indicate in item 25 of the Application AA-1 that he wants a full 60/30 age annuity. RAS will then pay the annuity using M/S as compensation to establish eligibility for a 60/30 annuity. If the employee is not sure which use of M/S (as compensation or wages) is to his advantage, and he indicates in item 25 of the Application AA-1 that he is filing for a reduced annuity, the final payment of his annuity will be handled manually. The examiner will decide which use of M/S is to the employee's advantage. If a statement from the employee is required, RBD will ask you to develop one.

305.25.3 Employee Disability Applicant Also Eligible for Reduced Age Annuity (New Section)

At times, an employee will file an application for a disability annuity who also meets the eligibility requirements for a reduced age annuity. If such a person claims dire need, a reduced age annuity may be paid pending the disability rating. However, this may require additional payment actions, additional RUIA fund transfers, and overpayment recovery action. For these reasons, do not offer this option routinely. This option should only be offered when dire need is claimed. In these situations:

1. The AA-1 must show that the employee is filing for a disability annuity.
2. The AA-1 must show that the employee will accept a reduced age annuity if not entitled to a full age or disability annuity; or the employee must submit a signed written statement to that effect. If a statement is needed, send it to RIS, supervisor. The statement may be combined with the statement described in 3 below.
3. Obtain a signed written statement from the employee that he will repay any overpayment that may occur from being paid a reduced age annuity. He must also state that he relinquishes his rights to return to railroad service in order to receive the age and service annuity, and that once the relinquishment takes effect, it cannot be revoked. Send the statement to RIS, supervisor.
4. Send an email explaining the situation to RIS supervisor with copy to DBD mailbox.
5. The supervisor or senior examiner of RIS will make arrangements for the payment.
6. DBD will keep a control on the case. Once the disability rating has been completed, the DBD initial lead examiner will notify the RIS supervisor by email.

305.30 Reduction In Annuity For Earnings

An age and service annuity may be reduced for excess earnings if the employee has a work deduction insured status, is under age 70 and has earnings in excess of the annual limit. The annuity components that may be withheld for excess earnings are the portion of tier I attributable to wages before 1974 and to railroad compensation and wages after 1974, and the vested dual benefit.

Tier II and the supplemental annuity are reduced up to 50% effective 12-1-88 for last person service earnings. If earnings from all sources exceed the annual earnings exempt amount, tier I and any VDB are also subject to deduction.

LPS earnings deductions apply regardless of the annuitant's earnings or age.

305.35 Suspension Of Annuity

An age and service annuity is not payable for any month in which the annuitant:

- A. Works for a railroad employer; or
- B. Criminal activity may require the suspension of an individual's O/M share or the conversion of his Tier 1 tax status to all NSSEB. See [FOM1 150](#) for further information on criminal activity procedures.
- C. Payment of tier I or DIB O/M may be withheld if the employee is deported from the U.S. 11-10-88 or later, due to association with the Nazi government of Germany during World War II.

305.40 Termination Of Annuity

An annuity terminates with the last day of the month before the month in which the annuitant dies.

305.45 Reinstatement And Recomputation Of Annuity

When annuity payments were suspended because the annuitant returned to RR service, payments are reinstated effective with the first day of the month following the month in which he ceased employment. Tier I increases, if any, are applied the first of the year following the year the compensation is earned. If a tier II recomputation is payable, it is effective with the first of the month following the date last worked.

305.45.1 Field Office Action

The annuitant must complete [Form G-88](#) (Certification of Termination of Service and Relinquishment of Rights) to have payments reinstated. A new application is not required. Submit the Form G-88 to Headquarters for reinstatement, via a cover memo.

The field office should also release Form G-88A.2 to confirm the date last worked - railroad, date rights relinquished, and any LAG needed to pay the annuity.

305.45.2 Headquarters Action

RBD will reinstate the annuity when the Form G-88 is received. If the Form G-88A.2 is returned to correct the date last worked or date rights relinquished, RBD will review and make any necessary adjustment.

When the railroad submits its annual report after the end of the year, RBD will determine whether or not an increase is payable. If applicable, the annuity will be recertified and an adjustment letter will be sent to the employee with a copy to the field office.

If, after the annual report is received, it is determined that inclusion of the additional service would not yield a payable increase, a Form Letter RL-23b will be sent to the employee with a copy to the field office, advising that an increase is not payable.

305.50 Vested Dual Benefit Entitlement Requirements

Under the 1974 Railroad Retirement Act (RRA), an annuitant who is entitled to social security benefits in addition to a railroad retirement annuity does not receive the full advantage of receiving both benefits. That is because a railroad annuity must be reduced for the amount of social security benefits payable. However, an annuitant will benefit from social security coverage if he is vested. The vested annuitant receives an additional annuity amount called a vested dual benefit, which is 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.

Because of separate funding, vested dual benefits may be subject to a percentage cutback if the total amount appropriated is insufficient to pay total vested dual benefits for that fiscal year.

305.50.1 Employee on the Rolls on December 31, 1974

An employee who filed an application before January 1, 1975, and had a beginning date before January 1, 1975, is vested if he was:

- A. Receiving SS benefits on 12-31-74; or
- B. Fully or transitionally insured under the Social Security Act (SSA) as of 12-31-74; or
- C. Entitled to a wife's or a transitional wife's benefit, a husband's, widow's, or widower's SS benefit on 12-31-74. If the employee is the wife or dependent

husband of an insured person, that person must be receiving a retirement insurance benefit or a disability insurance benefit before a VDB amount may be computed for the employee. The employee's VDB entitlement must have been determined before 8-13-81 (see [FOM1 305.51](#)); or

- D. The wife, widow, dependent husband, or dependent widower of a person who was fully insured under the SSA on 12-31-74. If the employee is the wife or dependent husband of an insured person, that person must be receiving a retirement insurance benefit or a disability insurance benefit before a windfall amount may be computed for the employee. The employee's VDB entitlement must have been determined before 8-13-81 (see [FOM1 305.51](#)).

305.50.2 Employee on the Rolls After December 31, 1974 and Insured on Own Wage Record

An employee who filed an application after 1-1-75 or had an annuity beginning date after 1-1-75 is vested if either A. or B. apply:

- A. The employee has at least 10 years of RR service as of 12-31-74;

AND HAS EITHER

1. Some RR service in 1974; or
2. A current connection (C/C) on 12-31-74 or on his ABD, whichever is later; or
3. At least 25 years of RR service as of 12-31-74;

AND

The employee has a fully or transitionally insured status under the SSA as of 12-31-74;

OR

- B. The employee has at least 10 years of RR service as of 12-31-74;

AND

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

EXAMPLE 1: The employee (date of birth 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 SSA. 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 under the conditions in FOM-I-305.50.2A and is entitled to the VDB because he had over 25 years of RR service and was insured under the SSA as of 12-31-74.

EXAMPLE 2: The employee (date of birth 7-14-16) last worked in the RR industry in 1964. At the time he had 23 years of RR service, but no insured status under the SSA. He had been working for an SS employer since 1964. He filed for both benefits in July 1981. He was insured for SS benefits by 12-31-74.

This employee is not 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.

305.51 Employee Vested On Another Account

Prior to 8-13-81, an employee could receive a vested dual benefit (VDB) if the employee was eligible for an SS benefit as a wife, widow, dependent husband, or dependent widower, and other vesting requirements were met. Beginning 8-13-81, a VDB based on another account may be paid only if the vesting requirements are met and the employee was entitled to the VDB before 8-13-81.

The following section explains the vesting requirements for VDB eligibility on another account. [FOM1 305.51.2](#) explains the requirements that must be met for payment of a VDB 8-13-81 or later.

305.51.1 Employee on the Rolls After December 31, 1974 and Eligible for an SS Benefit on Other than Own Wage Record

An employee who filed an application after 1-1-75 or had an annuity beginning date after 1-1-75 and who was not fully insured under the SSA as of 12-31-74 based on his own wage record may be vested if either A or B apply:

A. The employee has at least 10 years of RR service as of 12-31-74;

AND

Is the wife, widow, dependent husband or dependent widower of a person who is fully insured under the SSA as of 12-31-74, or is eligible for a transitional wife's benefit under the SSA as of 12-31-74, and the employee has one of the following:

1. Some RR service in 1974; or
2. A C/C on 12-31-74 or on his ABD, whichever is later; or
3. At least 25 years of RR service as of 12-31-74;

OR

- B. The employee has at least 10 years of RR service as of 12-31-74;

AND

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

If the employee annuitant is the wife or husband of the fully insured person, that person must be entitled to (i.e., must be receiving) an SS benefit for the annuitant to be eligible for an SS benefit. Therefore, the VDB benefit may not be paid prior to the beginning date of the wage earner's SS benefit. However, the employee does not have to be receiving a spouse SS benefit to be entitled to the VDB.

If the employee is vested as the widow(er) of the fully insured person, the employee does not have to be receiving an SS benefit to be entitled to the VDB. The terms "wife" and "widow" under the SSA include divorced wives (except when eligibility for a transitional wife's benefit is involved) and surviving divorced wives, respectively. To be eligible, the wife or widow must be finally divorced from the wage earner and have been married to him for at least 20 years immediately before the date the divorce becomes final. Effective 1-1-79, a divorced wife or widow is eligible for benefits under the SSA if she was married to the wage earner for only 10 years; however, the marriage must have lasted for 20 years in order to pay a divorced wife's or widow's VDB.

EXAMPLE 1: Mary Jones (date of birth 9-30-21) has 31 years of RR service and retired under the 60/30 provision of the RRA on 9-1-81. Her husband, who was insured under the SSA, died in 1970. Therefore, at age 60 she is eligible for a widow's benefit at SSA. Mrs. Jones is eligible for a VDB benefit since she meets RR vesting requirements and her late husband had an insured status under the SSA by December 31, 1974.

EXAMPLE 2: Beatrice Smith (date of birth 4-4-19) has 25 years of RR service and filed for a reduced age annuity beginning 4-1-81. Her husband, whose date of birth is 1-26-18, was insured under the SSA by 12-31-74. However, he has not yet filed for his SS benefit. Mrs. Smith is not entitled to a VDB until her husband is entitled to an SS benefit, although she is vested as the wife of a person who is fully insured under the SSA as of 12-31-74.

305.51.2 Vested Dual Benefit Payment 8-13-81 or Later

Beginning 8-13-81, a vested dual benefit (VDB) may be paid to an employee vested on another account only if the following requirements are met:

- A. The employee's annuity (partial or final) was authorized for payment before 8-13-81. Generally, if the employee's annuity was paid before 9-1-81, it was probably authorized for payment before 8-13-81. An annuity award processed by RASI is authorized for payment on the date the computer run is made. A claim processed manually is authorized for payment on the date the award form is signed by both a claims examiner and a claims authorizer; AND
- B. All the VDB entitlement requirements were met before 8-13-81, and the RRB was aware of such entitlement before 8-13-81.

If the employee is vested as a spouse, the employee's date of birth must be before August 14, 1919. The person on whose earnings record the employee is vested must have been awarded SS benefits before 8-13-81, and the RRB must have been aware of such entitlement before that date.

If a VDB was paid before 8-13-81 based on a spouse vested status, the VDB may continue to be paid when it converts to a widow(er)'s VDB 8-13-81 or later, if there is no break in entitlement.

If the employee is vested because of entitlement to a mother's or a disabled widow(er)'s SS benefit, the SS benefit must have been paid before 8-13-81 and the RRB must have been aware of such entitlement before that date.

An SS benefit does not have to be paid before an employee may be vested as an aged widow(er). However, the RRB must have been aware of the employee's vested status before 8-13-81; AND

- C. The auxiliary VDB must not have been erroneously denied before 8-13-81. The 1981 RRA amendments prohibit payment of a VDB in all cases in which entitlement was not determined prior to 8-13-81, including cases when entitlement was denied incorrectly.

An erroneous VDB denial generally means that the employee was eligible for the VDB when the annuity was awarded or recertified, but the auxiliary VDB determination was not made or was made incorrectly. The fact that the VDB was not paid, for whatever reason (delay, oversight, etc.), when evidence indicates such entitlement, means that the VDB was erroneously denied and cannot be paid.

EXAMPLE: A female employee's RIB/DIB VDB was paid 7-1-81. The evidence in file also indicated she was vested as a spouse, but the spouse VDB was not paid on 7-1-81. Because the spouse VDB was not paid when the annuity was recertified and the employee was eligible for the VDB, the spouse VDB was erroneously denied and cannot be paid.

305.55 Chart Of Requirements For Vested Status

See Appendix K in the manual for a chart summarizing the vesting requirements for employees on the rolls after December 31, 1974.

305.60 One-Half Support Requirement For Husbands And Widowers

A male employee could receive a vested dual benefit (VDB) as the husband or widower of a person who is insured under the Social Security Act (SSA) only if he met the one-half support requirement under SSA rules. The VDB was calculated using the benefit to which the husband or widower would have been entitled under the SSA on December 31, 1974. Since on 12-31-74 one-half support was a requirement for paying the husband's and widower's benefits, the VDB could not be paid to employees who did not meet the one-half support requirement. If the employee did meet the one-half support requirement, the VDB date of entitlement could not be prior to the date the one-half support requirement was met. All the requirements in [FOM1 305.51](#) must be met for payment of the VDB 8-13-81 or later. Proof of one-half support must have been submitted before 8-13-81.

305.60.1 When Requirement Must Be Met

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

- A. At the beginning of the wage earner's disability freeze period; or
- B. At the time the wage earner became entitled to a retirement insurance benefit (RIB); or
- C. At the time the wage earner became entitled to a disability insurance benefit (DIB); or
- D. At the time the wage earner died.

305.60.2 When Proof of Support Must Be Filed

Proof of support must be filed within 2 years after the point at which the support requirement must be met, unless good cause can be established. The employee should have completed and filed Form G-134 (Statement Regarding Contributions and Support). Proof of support must have been submitted before 8-13-81.

EXAMPLE: The employee's wife is entitled to a DIB effective 11-1-75 based on a period of disability beginning 5-1-75. She attained age 65 in 2-80. In this case, the support requirement may be met on 5-1-75, 11-1-75 or 2-1-80 (when the DIB is switched to an RIB). If the employee has not filed proof of support by 11-77 (2 years after the DIB entitlement date), he may still become entitled to a VDB effective 2-1-80 if the one-half support requirement is met on that date and the employee filed proof of support before 8-13-81.

305.65 Proofs Required For Payment Of Vested Dual Benefit

Before paying a vested dual benefit (VDB) based on the employee's status as the spouse or widow(er) of a person insured at the Social Security Administration, it was necessary to develop proof of marriage, proof of death and any other evidence that would be needed to award a spouse or widow(er)'s SS benefit. Living with is not a requirement for the payment of a spouse SS benefit. In most cases, if a spouse or widow(er) SS benefit is being paid, it is assumed that the necessary proofs were developed at the Social Security Administration. The VDB will then be paid without further development, if the requirements in [FOM1 305.51](#) are met for payment of the VDB 8-13-81 or later.

However, if a divorced wife's or widow's SS benefit is being paid from 1-1-79 or later, evidence had to be developed showing the date of marriage and date the divorce became final. Although a divorced wife's or widow's SS benefit may be paid effective January 1, 1979 or later if she was married to the wage earner for 10 years, the marriage must have lasted for 20 years in order to pay the VDB. This is because 20 years of marriage was a requirement for paying a divorced wife's or widow's SS benefit on December 31, 1974. No VDB may be paid unless all required proofs were submitted before 8-13-81.

305.70 When The Vested Dual Benefit Is Payable

The vested dual benefit (VDB) 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. If the annuitant is entitled to a VDB because he is the spouse or dependent husband of a person who is fully insured under the Social Security Act (SSA) as of December 31, 1974 (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 VDB may not be paid prior to the beginning date of the wage earner's SS benefit.

The earliest point at which the annuitant would be eligible for an SS benefit depends on whether eligibility is based on his own wage record or someone else's wage record.

305.70.1 Eligibility Based on Own Wage Record

The earliest point at which an employee would be eligible for an SS benefit on his own wage record is:

- A. Age 62 if he is eligible for an RIB. If the employee attains age 62 on 9-1-81 or later, the VDB may not be paid until the first full month the employee is age 62. If the employee's 62nd birthday is on or after the third day of the month, the VDB may not begin until the first day of the next month; or
- B. Any age if he is eligible for a DIB at the Social Security Administration. (Since the Social Security Administration would not pay the DIB until after the expiration of

the five-month waiting period, the VDB would also not be payable until after the five-month waiting period.)

305.70.2 Eligibility Based on Someone Else's Wage Record

All the requirements in [FOM1 305.51](#) must be met for payment of the vested dual benefit 8-13-81 or later. The earliest point at which an employee would be eligible for an SS benefit on someone else's wage record is:

- A. Age 62 if the employee is eligible for a wife's or husband's SS benefit; or
- B. Age 60 if the employee is eligible for a widow(er)'s or remarried widow(er)'s SS benefit; or
- C. Age 50 if the employee is eligible for a disabled widow(er)'s SS benefit; or
- D. Any age if the employee is eligible for a mother's SS benefit based on having in her care a child entitled to a child's SS benefit on her husband's or deceased husband's wage record.

305.71 Waiver Of Vested Dual Benefit Entitlement

When entitlement to a vested dual benefit (VDB) causes a decrease in the annuity rate, the annuitant may wish to waive entitlement to the VDB. An annuitant may request VDB waiver at any time. However, RBD will initiate the development of VDB waiver only in the following situations:

- A. The VDB entitlement causes the annuity rate to decrease. This may happen if the tier II reduction for the RIB/DIB VDB exceeds the amount of the RIB/DIB VDB. The cases affected are generally 1974 Railroad Retirement Act conversion cases, or cases in which an auxiliary VDB had been paid; or
- B. The VDB cutback percentage is greater than 75%. The tier II reduction for VDB entitlement is 25% of the VDB. If the VDB is cut back more than 75%, the tier II reduction will exceed the amount of the VDB payable. VDB entitlement, therefore, will cause the annuity rate to decrease.

Whenever entitlement to an RIB/DIB VDB is waived, the annuitant's tier II is not reduced for the VDB. The employee's VDB waiver does not affect any other annuity; the spouse tier II and the RRA maximum computation will be based on the employee's tier II after reduction for VDB entitlement. The spouse may still receive the spouse VDB, if the conditions for payment before the 1981 amendments are met.

The effective date of the waiver and other general information is in [FOM1 110](#). If the VDB has not been awarded, the waiver may be effective with the VDB date of entitlement. If the VDB has been paid, the rules in FOM-I-110 apply.

When RBD initiates development in the situations listed in this section, you will receive a memorandum which explains the advantages of waiving the VDB. The memo will include the annuity rates with and without the VDB, and the effect on annuity payments if the VDB is not waived (e.g., an overpayment). You should contact the annuitant to explain the advantages of waiving the VDB. Your response to RBD should be:

1. If the annuitant agrees, a clear and unambiguous statement waiving VDB entitlement; or
2. If the annuitant does not wish to waive the VDB, notify RBD; or
3. If the annuitant does not respond immediately, notify RBD of the date you contacted the annuitant. If RBD has not received a response within 60 days of the date of your contact, the VDB will be paid and any overpayment will be recovered. An extension of the time for response will be granted if requested.

305.75 When Vested Dual Benefit Entitlement Ends

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

- A. The last day of the month before the month in which the employee dies; or
- B. 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 Social Security Act (SSA).

NOTE: The VDB 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 and rate of the SS benefit, the VDB will be recomputed. If VDB entitlement was established before 8-13-81, the VDB may be recomputed if the change in computation is 8-13-81 or later.

305.80 Felony/Criminal Activity Development

Criminal activity may require the suspension of an individual's O/M share or the conversion of his Tier 1 tax status to all NSSEB. See [FOM1 150](#) for further information on criminal activity procedures.