

For Use With
Form AA-1d

HOW WORK AND EARNINGS CAN AFFECT
EMPLOYEES INITIALLY AWARDED
DISABILITY ANNUITIES



**United States of America
Railroad Retirement Board**

Visit our website at www.rrb.gov

INTRODUCTION

This publication contains important information for you as a former railroad employee who filed for and received a disability annuity from the Railroad Retirement Board (RRB).

As a disability annuitant, you are subject to strict limitations on the amount you earn while receiving benefits under the Railroad Retirement Act. In order to prevent overpayments, you should **immediately notify the RRB** if you are receiving a disability annuity and return to work or have earnings from employment of any kind.

Work for earnings includes work for any employer, including self-employment for a family-owned, controlled, or managed business, such as a business operated, managed, or owned by you, your spouse, another family member, friend or close associate, whether for pay or not, and without regard to how the business is organized (e.g., sole proprietorship, partnership, corporation, Limited Liability Company, Limited Liability Partnership, etc.).

If you perform work in a business that you own, you are not relieved of your reporting responsibility by transferring or assigning ownership of the business to another person or entity, such as your spouse or another family member. You must report all work including work as a corporate officer, corporate board member, owner or operator of a corporation including a corporation owned by a spouse, other family member or a friend, whether for pay or not; or if you receive anything of value in lieu of salary or wages for any work performed (e.g., stock or shares of the dividends paid).

You should be aware that the RRB conducts computer matching programs with other Federal, State, and local government agencies to identify unreported earnings that may affect your entitlement to benefits. If you fail to timely report your earnings, it may result in an overpayment, including additional penalty amounts. In some cases, failure to report earnings may constitute a criminal violation under Title 45, U.S.C., section 231(l) or other criminal or civil statutes of law.

We recommend that you read this entire publication and also read our other publications:

- Form RB-1d, *Employee Disability Benefits*
- Form G-77a, *How Work Affects Your Railroad Retirement*
- Form AB-31, *How Work Affects Your Disability Annuity*

We also recommend that you keep this and any other RRB-issued publication for future reference.

The above publications are available on the RRB's website at www.rrb.gov or by contacting an RRB representative toll-free at (877) 772-5772.

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Nondiscrimination on the Basis of Disability
Fraud, Waste, and Abuse Hotline

PART I - HOW AGE AFFECTS A DISABILITY ANNUITY

Chapter 1 - When Does a Disability Annuity End?

Once an employee has been awarded a disability annuity under the Railroad Retirement Act (RRA), that individual is required to meet all disability earnings tests and is subject to continuing disability reviews until the disability annuity ends. An employee annuity based on disability ends with the earliest of the following:

- The last day of the month before the month in which the employee dies;
- The last day of the second month following the month in which the employee's disability ends; or
- The last day of the month before the month in which the employee attains full retirement age, also referred to as FRA. FRA is NEVER younger than age 66 for individuals born after 1942.

Chapter 2 - What is My Full Retirement Age?

An individual's full retirement age (FRA) is the earliest age at which a person can begin receiving non-disability social security benefits without any reduction for early retirement. FRA ranges from age 65 to age 67, depending upon the individual's year of birth. To determine your FRA, simply locate your year of birth in the chart below.

Year of Birth	Full Retirement Age
1937 or earlier	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943 through 1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 or later	67

A person attains a given age the day before his or her birthday. Consequently, someone born on January 1 is considered to have attained his or her given age on December 31 of the previous year.

Chapter 3 - What Happens to My Disability Annuity When I Meet the Requirements for an Age and Service Annuity?

An individual's attainment of age 60 with 30 years of service does not have any impact on the disability annuity to which the individual is entitled; nor does it impact the disability earnings restrictions. This is true even though the individual would have otherwise qualified for a full age annuity under the Railroad Retirement Act (RRA) based on being at least age 60 with 30 years of service.

Similarly, an individual's attainment of age 62 does not have any impact on the disability annuity to which the individual is entitled; nor does it impact the disability earnings restrictions. This is true even though the individual would have otherwise qualified for an age-reduced annuity under the RRA. For example:

- Mr. Smith, a railroad worker, was born in July 1960 and has 30 years of service. He was awarded a disability annuity by the RRB at age 47 in January 2008. He will reach his full retirement age of 67 in July 2027.

Mr. Smith will reach age 60 in the year 2020, the earliest age a non-disabled person may retire under the RRA with 30 years of railroad service. Because he has already retired by reason of disability, he will **not** be eligible to receive a regular retirement annuity based on 30 years of service *unless* he is no longer disabled.

- Mrs. Jones, a railroad worker, was born in September 1958 and has 20 years of service. She was awarded a disability annuity by the RRB at age 52 in October 2010. She will reach her full retirement age of 66 and 8 months in May 2025.

Mrs. Jones will reach age 62 in the year 2020, the earliest age a non-disabled person may retire under the RRA with 20 years of railroad service. Because she has already retired by reason of disability, she will **not** be eligible to receive a regular retirement annuity based on 20 years of service *unless* she is no longer disabled.

The RRB confirms recovery from disability by conducting a formal continuing disability review (refer to Chapter 13, *Continuing Disability Review*). In the examples above, when Mr. Smith and Mrs. Jones reach their full retirement age, the disability earnings restrictions will be removed and they will both be treated as though they had retired under the age and service provisions of the RRA.

Chapter 4 - What Happens to My Disability Annuity When I Attain Full Retirement Age?

Your disability annuity will end the last day of the month before the month in which you attain full retirement age (FRA). This will happen automatically and there is no action you need to take for this to occur. The law provides that upon your attainment of FRA and the termination of your entitlement to a disability annuity, you are deemed to have filed an application for an age and service annuity. Your disability annuity will automatically be converted to an annuity based on age and service and your benefit payments will continue.

PART II - WORK AND EARNINGS

Chapter 5 - How Work Can Affect Your Disability Annuity

Work can affect your disability annuity by impacting your annuity payment and/or continuance of your disability. Work and earnings can affect the payment of your annuity and must be reported promptly to the RRB in order to avoid potential overpayments and penalties. Work activity can also demonstrate a recovery from your disability, resulting in the termination of your disability annuity. (See Chapter 12 for a description of medical recovery.)

The following describes the effect of work on your benefit payments.

A. Work in the Railroad Industry

Your annuity cannot be paid for any month that you work in the railroad industry. This also includes work for a Canadian railroad that is covered under the Railroad Retirement Act. This restriction applies even though you may have reached full retirement age (FRA).

B. Work for Your Last Nonrailroad Employer

The tier II portion of your annuity, and your supplemental annuity, if any, are subject to deductions for earnings from your last nonrailroad employer. The deduction is \$1 for \$2 in earnings, not to exceed 50% of these components.

C. Work for any Employer

Note: Section C refers to disability earnings limits. Refer to Form AB-31, *How Work Affects Your Disability Annuity*, for the current disability earnings limits.

1. **Earnings of More Than the Disability Earnings Limit from Any Work** - If you are under FRA, your annuity cannot be paid for any month you do any work and earn over the disability earnings limit. Impairment related work expenses (IRWE) may reduce the amount of your monthly earnings. IRWE include special expenses you paid for items or services that you need in order to work.
2. **Earnings** - Earnings include wages before payroll deductions, commissions, and other payments for work (such as room and board), and net earnings from self-employment.
3. **Penalties for Late Reports** - If your earnings are greater than the disability earnings limit for a month, and you do not report it to us within two months, you will be penalized.
 - The first time you report late, the penalty is one month's annuity.
 - The second time you report late, the penalty is one month's annuity for each month you earned over the disability earnings limit.
4. **End-of-the-Year Adjustment** - If your annuity was adjusted because reported earnings were over the disability earnings limits, we will send you a form, after the

end of the calendar year, on which to report your earnings. Annuity payments that have been withheld will be paid if you earned less than the disability earnings maximum.

D. Work May Raise a Question About Your Condition

Until you reach FRA, your work and earnings will be evaluated to see if you are able to do “regular work.” Regular work is the performance of the full range of material and substantial duties of any regular and gainful employment with any employer. Substantial duties are those that involve significant mental or physical activity even if they are done part time. Gainful employment is work that is done for pay or profit, or is the kind that is usually done for pay or profit even if no profit is realized. (See Chapter 10, *Substantial Gainful Activity*, for additional information on work and earnings.)

Any work performed after your disability annuity begins may raise a question about “medical recovery” regardless of the amount of your earnings. (Refer to Chapter 12, *What is Medical Recovery?*, for more information.)

Detailed information about monthly and annual earnings limits is available on the RRB’s website at www.rrb.gov or by contacting an RRB representative toll-free at (877) 772-5772.

Chapter 6 - What is Work for Earnings?

“Work for earnings” is any activity that a disability annuitant performs for money or other form of benefit or compensation. It does not matter what the activity is called or who legally owns the business. It does not matter how the benefit or compensation is received or who benefits from it. The following are examples of work that may impact entitlement to a disability annuity.

Example #1: A disability annuitant owns property as an investor and receives profits from the property as dividends paid to him as an investor. The annuitant also manages and maintains the property by showing apartments, mowing the lawn, and shoveling snow. Even though the annuitant receives only dividends, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #2: A disability annuitant forms a corporation that operates a candy shop. All of the shares in Candy Shop, Inc. are owned by the annuitant’s brothers. The annuitant sits at the cash register and rings up sales but does not accept a salary. All of the profits are paid to the annuitant’s brother and children as shareholders. Even though the annuitant receives no money, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #3: A disability annuitant invests in a partnership to operate a roofing business with several friends. The other partners do the hard labor: making sales calls, climbing on roofs, and supervising other staff or employees. They hire a professional accountant to keep their financial records and to do the payroll. The annuitant answers the phone, takes messages, schedules appointments and answers questions from prospective clients, but he or she does not receive a salary. After all the salaries are paid to those working in the business, there are no profits to pay to the partners. Even though the annuitant receives no money, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #4: A disability annuitant drives his personal car to make deliveries for his spouse's flower business. The flower business pays for the gas and a small amount for each mile driven. Even though the annuitant receives no salary or money, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #5: A disability annuitant drives a bus for a local public school as a self-employed independent contractor. The school district makes the payment checks to the annuitant's spouse. Even though the annuitant receives no salary or money, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #6: A disability annuitant drives a bus for a private school as a self-employed independent contractor. The annuitant's children attend the school at no charge. Even though the annuitant receives no salary or money, the RRB may consider this work for earnings and it must be reported to the RRB.

Example #7: A disability annuitant cares for a family member and is paid through a program sponsored by the state or a private agency. The RRB may consider this work for earnings and it must be reported to the RRB.

Work for earnings is any benefit or compensation that is received in return for effort. A "benefit or compensation" may be something monetary such as cash, salary, or dividends, but may also be anything of value such as a discount on tuition, reimbursement of expenses, precious stones or metal, jewelry, an automobile, an appliance, travel/trips, or an ownership share in a business.

All work for earnings by a disability annuitant should be reported to the RRB. The RRB will evaluate the reported work and earnings, and determine whether earnings exceed allowable limits and if entitlement to benefits is affected. The RRB will also consider how your work compares to the work you did for your former railroad or nonrailroad employer before you applied for your disability annuity at the RRB.

Chapter 7 - Activities That May Be Considered Work

An activity may be considered work by the RRB, regardless of whether or not you receive compensation. Compensation includes salary, fees, commissions, gratuities, dividends, royalties, residuals, or any other sort of wages in kind. Compensation may also include a value in lieu of salary or wages, such as in the form of a commodity, service, or privilege.

An activity may be considered work regardless of whether or not a profit (gross or net) is achieved. Work may include activity:

- for any employer, regardless as to whether or not your employer is a spouse, other family member, friend, or yourself;
- even if it is considered only a hobby by the Internal Revenue Service;
- as a volunteer for a for-profit or non-profit organization;
- as an elected or appointed public official;
- for the U.S. military;

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- in any agriculture-related activity (regular or seasonal), such as, but not limited to, farming crops or livestock, sale of timber, etc.;
 - in a religious ministry;
 - providing in-home services for a family member; or
 - as a consultant.

“Work” also includes self-employment, regardless of the type of business entity and includes sole proprietorships, partnerships, corporations, Limited Liability Companies, or Limited Liability Partnerships that you own, operate, or participate in, whether for pay or not. (Refer to Chapter 9, *Self-Employment*.)

Chapter 8 - Owning, Selling, Transferring a Business

Contact the RRB if you owned, sold, or turned over a business entity or transferred a corporate officer role to another individual, friend, spouse, or other family member. A business entity includes a family business, sole proprietorship, partnership, Limited Liability Companies, Limited Liability Partnerships, C-Corporation, or S-Corporation. The RRB may request pertinent tax returns including, but not limited to:

- Form 1040, *U.S. Individual Income Tax Return*;
- Form 1040-ES, *Estimated Tax for Individuals*;
- Form 1065, *U.S. Return of Partnership Income*;
- Form 1120, *U.S. Corporation Income Tax Return*;
- Form 1120S, *U.S. Income Tax Return for an S Corporation*; and
- Schedules associated with these forms (example, Schedule C, *Profit or Loss from Business*; Schedule C-EZ, *Net Profit from Business*; Schedule SE, *Self-Employment Tax*; Schedule E, *Supplemental Income and Loss*; Schedule K-1, (*Form 1065*) *U.S. Return of Partnership Income*, etc.).

Chapter 9 - Self-Employment

Self-employment is work performed in a person’s own business, trade or profession, rather than for an employer. Earnings limitations apply to self-employment and, like any employment, may indicate recovery from disability.

When you claim self-employment, whether it is a partnership, sole proprietorship, Limited Liability Company, Limited Liability Partnership or other type of business entity, the RRB will determine whether the self-employment impacts your disability benefits.

If you are self-employed as a consultant, the RRB considers how your self-employment compares to the work you did for your former railroad or nonrailroad employer before you applied for your disability annuity.

To determine how your self-employment affects your disability annuity, the RRB may require you to provide detailed information about your business activity by completing RRB Form AA-4, *Self-Employment and Substantial Service Questionnaire*; RRB Form G-252, *Self-Employment/Corporate Officer Work and Earnings Monitoring*; and/or submitting copies of personal and business tax returns.

Chapter 10 - Substantial Gainful Activity

Substantial gainful activity (SGA) is work which results in earnings over a certain monthly threshold. It also refers to work activity involving the performance of significant physical or mental duties, or a combination of both, which are productive in nature. If you work and are receiving an annuity based on a total and permanent disability, or if you have a period of disability (also called a disability freeze) or early Medicare, you may be subject to a finding of SGA as the result of a continuing disability review (CDR) determination. This may impact the continuation of your disability annuity, period of disability, and/or early Medicare. For a description of CDR, see Chapter 13. Also, refer to Form AB-31, *How Work Affects Your Disability Annuity*.

Chapter 11 - Trial Work Period

If you work after your disability benefits begin, you may be entitled to a trial work period (TWP). This is a period of time where you may test without penalty your ability to work and still be considered disabled. A TWP may last 9 months (not necessarily consecutive) in a 60-month period. After the TWP is complete, the RRB will decide whether you are still disabled. Some limitations apply to the TWP. Due to the complexity of determining whether you qualify for the TWP, you should contact an RRB representative **before** returning to work.

PART III - WHEN WORK AND EARNINGS INDICATE RECOVERY FROM DISABILITY

Chapter 12 - What is Medical Recovery?

Work performed and the amount of earnings a person makes may indicate that the person medically recovered from their disability. A person has medically recovered from a disability if, based on medical evidence or work performed by the individual, it is determined that the individual is able to return to:

- regular work, or
- substantial gainful activity (SGA), or
- work in the individual's regular railroad occupation or similar occupation.

Chapter 13 - Continuing Disability Review

Until you reach full retirement age (FRA), your work activity and earnings will be evaluated to see if you are able to do "regular work." Also, work performed after your disability annuity begins may indicate "medical recovery," regardless of the amount of your earnings. If this happens, you will be asked for additional information about your medical condition and the RRB may request that you submit new medical evidence and/or undergo a medical examination(s).

During the course of entitlement to the disability annuity, from the annuity beginning date through the month before FRA is attained, the RRB may conduct formal continuing disability reviews (CDR) to determine if you have recovered from your disability. This is necessary to see if your disability annuity, period of disability (disability freeze), or early Medicare coverage should continue.

The RRB will send you a Form G-254, *Continuing Disability Report*, with instructions on how to complete the form, obtain recent medical evidence, and return the G-254 and other documents to the RRB.

If the RRB confirms recovery from disability after conducting a CDR, the disability is terminated. At the time of termination, you may be eligible for a railroad retirement annuity based on age and service. Contact your local RRB office for more information by calling toll-free (877) 772-5772.

PART IV - YOUR RESPONSIBILITY FOR REPORTING EVENTS

Chapter 14 - Reporting Requirements

Rights to benefits under the Railroad Retirement Act also carry responsibilities for reporting work, earnings, and certain other events that may affect your right to receive disability benefits. The RRB informs you of events you are obligated to report, and, if you do not comply, benefit overpayments can occur that have to be repaid, sometimes with interest and penalties. In some cases, failure to report may constitute a criminal violation under Title 45, U.S.C., section 231(l) or other criminal or civil statutes of law. You should be aware that the RRB conducts computer matching programs with other Federal, State, and local government agencies to identify unreported work and earnings.

In addition, the RRB sends annual reminders to those under full retirement age (FRA). As such, you may receive Form RL-4 (if you are an employee under FRA) and/or Form RL-7 (if you are an employee under FRA and also have earnings under the annual limits).

If you have questions about your disability annuity or other questions about RRB benefits and programs, additional information is available on the RRB's website at www.rrb.gov or by contacting an RRB representative toll-free at (877) 772-5772.

Chapter 15 - Why Disability Annuitants Must Report Work and Earnings

Disability annuitants may perform some work, but the law limits how much money or income a disability annuitant may earn and still continue to receive disability benefits. In addition, some types of work may indicate that the annuitant has recovered from their disability.

To determine if and how work will affect a disability annuitant's benefits, the RRB looks at the following factors:

- What work was performed and for what employer?
- Was it work for earnings?
- How much was earned?
- If you have any impairment related work expenses (IRWE), they may reduce the amount of earnings counted toward the annual earnings limit. IRWE include the reasonable costs to you of certain items and services which, because of your impairment(s), you need and use to enable yourself to work.

When you report work and earnings promptly, the RRB is able to determine whether your work and/or earnings will have any impact on your entitlement to disability benefits or the amount of benefits paid to you. The RRB may conduct a formal continuing disability review to determine if your work indicates that you have recovered from your disability (see Chapters 10 through 13).

The RRB performs periodic matches with other Federal and State agencies to identify any unreported earnings. Failure to report your work and earnings timely to the RRB may result in overpayments, as well as additional penalty amounts. In some cases, failure to report earnings may constitute a criminal violation under Title 45, U.S.C., section 231(l) or other criminal or civil statutes of law.

Detailed information about monthly and yearly earnings limits is available on the RRB's website at www.rrb.gov or by contacting an RRB representative toll-free at (877) 772-5772.

Chapter 16 - How to Report

If at any time after you have filed your application you find that one of the conditions previously described in this booklet applies to you, immediately notify the RRB in writing. The notice should be sent to the RRB field office at the address shown on the receipt for your application. However, if you wish, you may also visit that office or call an RRB representative toll-free at (877) 772-5772.

When you report an event, be sure to include **all** of the following:

- your railroad retirement claim number, which is shown at the top of your application receipt,
- your name (or the employee's name if you are reporting an event for the employee),
- a clear explanation of what event you are reporting,
- the exact date (month, day, year) that the event occurred, and
- your address and daytime telephone number.

In addition, to report work and earnings, it is important that you **also** furnish **all** of the following:

- the kind of work, including self-employment, that you are doing,
- the name and address of your employer,
- how much you expect to earn each month,
- the period of time you expect to work,
- how many hours per week you work, and
- any impairment-related work expenses.

NONDISCRIMINATION ON THE BASIS OF DISABILITY

Under Section 504 of the Rehabilitation Act of 1973 and Railroad Retirement Board (RRB) regulations, no qualified person may be discriminated against on the basis of a disability. RRB programs and activities must be accessible to all qualified applicants and beneficiaries, including those with impaired vision or hearing. Disabled persons needing assistance (including auxiliary aids or program information in accessible formats) should contact the nearest RRB office. Complaints of alleged discrimination by the RRB on the basis of a disability must be filed within 90 days in writing with the

Director of Administration
Railroad Retirement Board
844 North Rush Street
Chicago, IL 60611-1275

Questions about individual rights under this regulation may be directed to the RRB's Director of Equal Opportunity at the same address shown above.

FRAUD, WASTE, AND ABUSE HOTLINE

The RRB's Office of Inspector General established its Hotline as a public service. The Hotline provides individuals with a means to report or discuss any suspected misconduct relating to the RRB, its programs or employees.

If you believe a doctor, hospital, or other health care provider is billing Medicare for services not provided or for unnecessary medical procedures or supplies; someone is illegally receiving RRB benefits; or you wish to report or discuss any other suspected misconduct relating to the RRB, its programs or employees, please contact the Office of Inspector General at:

Toll-Free Hotline: 1-800-772-4258

U.S. Mail: RRB-OIG Hotline Officer
844 North Rush Street
Chicago, Illinois 60611-1275

Fax: (312) 751-4342

Email: hotline@oig.rrb.gov

Please review the RRB's email notice and Internet privacy policy at www.rrb.gov before submitting information online.

Note: Please do not contact the Office of Inspector General's Hotline with questions regarding benefit eligibility requirements, delayed payments or similar problems. These types of matters should be directed to an RRB office.
