

Railroad Retirement Board

§210.7

conducts the principal part of its business with the United States is creditable. However, service performed for an employer who conducts the principal part of its business outside the United States is creditable only when the service is performed in the United States. If an employer, other than a local lodge or division or a general committee of a railway labor organization, does not conduct the principal part of its business within the United States, the service performed outside the United States for that employer is not creditable.

(2) Service performed outside the United States by an employee who is not a citizen or resident of the United States is not creditable if the employer is required under the laws of that place to hire, in whole or in part, only citizens or residents of that place.

(f) *Service as employee representative.* Service performed as an employee representative is creditable in the same manner and to the same extent as service performed for an employer.

(g) *Service performed after the beginning date of an annuity.* Service performed after the beginning date of an annuity shall be used in the annuity recomputation.

[49 FR 46731, Nov. 28, 1984, as amended at 53 FR 17184, May 16, 1988]

§210.6 Service credited for creditable military service.

Any calendar month in which an employee performed creditable military service, as defined in part 212 of this chapter, shall be counted as a month of service and shall be included in the employee's years of service, as provided for in §210.5, provided that the employee has not previously been credited with reported or deemed service for an employer for the same month(s).

[53 FR 17184, May 16, 1988]

§210.7 Verification of service claimed.

Service claimed by an employee, which is not credited in the records of the Board, must be verified to the satisfaction of the Board before it may be credited. Verification of the Service claimed shall be as follows:

(a) Service claimed will be verified from the payroll or other detailed records of the employer.

(b) If the payroll or other detailed records are incomplete or missing, the service claimed and not established by these records will be verified from the personnel records of the employer.

(c) If the payroll, personnel and detailed records are incomplete or missing, the service claimed and not established by these records will be verified from any other books and records of the employer.

(d) If the employer's records do not establish the service claimed, the employee may submit affidavits and other evidence in support of the service claimed in either of the following instances:

(1) When there are no employer records available to show whether or not the service claimed was performed; or

(2) When there are employer records available which do not verify the service claimed and do not establish that the service claimed was not performed.

(e) When service is verified as to over-all dates, but is not supported in detail by employer records, and when there are no employer records showing in detail absences from service, a deduction shall be made to cover an average amount of the absences. The deduction shall be the absences shown by the applicant or 5 percent of the total period in question, whichever is greater. However, where the employee submits detailed records of the service claimed, properly identified and established as having been made at the time the employee performed the service for which detailed records of the employer are not available, full credit may be allowed for the service as may be verified from the records. Also, the employee may be permitted to establish in any other manner satisfactory to the Board the actual amount of his or her absences.

(f) For the purpose of verifying service before 1937, employers shall preserve through 1986, in accessible form, the original records of the service and compensation.

(g) For the purpose of verifying service after 1936, employers shall preserve in accessible form the original records

of service and compensation for a period of five calendar years after the due date of the report.

(Approved by the Office of Management and Budget under control numbers 3220-0003 and 3220-0008)

[49 FR 46731, Nov. 28, 1984, as amended at 52 FR 11016, Apr. 6, 1987]

PART 211—CREDITABLE RAILROAD COMPENSATION

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§211.1 General.

Benefits under the Railroad Retirement Act are based in part on the individual's years of service and amount of compensation credited to the individual under the Act. This part defines what the term compensation means and sets forth the criteria applied in determining what payments are creditable as compensation under the Railroad Retirement Act.

§211.2 Definition of compensation.

(a) The term compensation means any form of payment made to an individual for services rendered as an employee for an employer; services performed as an employee representative; and any separation or subsistence allowance paid under any benefit schedule provided in conformance with title

VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act. Compensation may be paid as money, a commodity, a service or a privilege. However, if an employee is to be paid in any form other than money, the employer and employee must agree before the service is performed upon the following:

- (1) The value of the commodity, service or privilege; and
 - (2) That the amount agreed upon to be paid may be paid in the form of the commodity, service or privilege.
- (b) Compensation includes, but is not limited to, the following:
- (1) Salary, wages and bonuses;
 - (2) Pay for time lost as an employee;
 - (3) Cash tips of \$20 or more received in a calendar month;
 - (4) Vacation pay;
 - (5) Military pay as determined in §211.7 of this part;
 - (6) Displacement allowances as provided for in §211.8 of this part;
 - (7) Dismissal allowances as provided for in §211.9 of this part;
 - (8) Separation allowances as provided for in §211.10 of this part;
 - (9) Miscellaneous pay as provided for in §211.11 of this part;
 - (10) Payments made under title VII of the Regional Rail Reorganization Act of 1973 as provided for in §211.12 of this part.
 - (11) Payments paid to an employee or employee representative which are subject to tax under section 3201(a) or 3211(a) of the Internal Revenue Code of 1954 are creditable as compensation under the Railroad Retirement Act for purposes of computation of benefits under sections 3(a)(1), 3(f)(3), 4(a)(1) and 4(f)(1).
 - (12) Voluntary payments of any tax by an employer, without deducting such tax from the employee's salary.
 - (13) Payments made by an employer with respect to a deceased employee except as provided for in §211.13 of this part.
- (c) Compensation does not include:
- (1) Tips, except as provided in paragraph (b)(3) of this section;
 - (2) Payments for services performed by a nonresident alien for the period the individual is temporarily present in the United States as a nonimmigrant