

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

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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