

## § 209.10

(2) An employee shows that the amount of service or compensation reported by the employer to the employee's account was not correct; or

(3) An employee shows that he or she should have been credited with service and compensation for a period for which the employer reported no service and compensation.

(b) Employers may submit adjustment reports to:

(1) Correct service and compensation previously reported; and

(2) Report service and compensation that was omitted from a previous report.

(c) Employers submitting adjustment reports covering pay for time lost as an employee shall report this compensation as provided for in §211.3 of this chapter. Adjustment reports may be submitted to the Board each month.

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

[49 FR 46729, Nov. 28, 1984. Redesignated and amended at 63 FR 32613, June 15, 1998]

### § 209.10 Terminated employers' reports.

When an employer's status as an employer is terminated, a final report of creditable service and compensation shall be made. The final report shall be submitted to the Board on or before the last day of the month following the final month for which there was compensated service. The report shall be completed as prescribed in §209.8(a) of this part and shall be marked Final Compensation Report.

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

[49 FR 46729, Nov. 28, 1984. Redesignated and amended at 63 FR 32613, June 15, 1998]

### § 209.11 Employee representatives' reports.

An individual claiming status as an employee representative shall describe his or her duties as an employee representative on the form prescribed by the Board. The Board shall determine whether the individual claiming to be an employee representative meets the requirements for such a status. If the individual is determined to be an employee representative, he or she is required to make an annual report of

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creditable compensation as provided for in §209.8 of this part. If an employee representative's status is terminated, the last report of service and compensation shall be marked Final Compensation Report.

(Approved by the Office of Management and Budget under control number 3220-0014)

[63 FR 32613, June 15, 1998]

### § 209.12 Certificates of service months and compensation.

(a) Each year the Board shall provide each employee who performed compensated service in the preceding calendar year a certificate of service months and compensation. This certificate is the employee's record of the service and compensation credited to his or her account at the Board. An employee who for any reason does not receive a certificate may obtain one from the nearest Board district office or may write the Board for one.

(b) By April 1 of each year each employer shall provide the Board the current address of each employee for whom it had reported compensation. This requirement shall not apply in the case of an employee for whom the employer had previously provided an address.

(Approved by the Office of Management and Budget under control number 3220-0194)

[63 FR 32613, June 15, 1998]

### § 209.13 Employers' gross earnings reports.

(a) Each employer is required to report the gross earnings of a one-percent sample group of railroad employees. The gross earnings sample is based on the earnings of employees whose social security numbers end with the digits 30. This report is used to determine:

(1) Tax and benefit amounts involved in the Financial Interchange with the Social Security Administration and the Health Care Financing Administration; and

(2) Estimated tax income accruing to the railroad retirement system in future periods.

(b) Employers shall submit reports annually for employees in the gross earnings sample. Such reports shall include the employee's gross annual

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earnings, which includes all compensation taxable under the hospital insurance portion of the tier I tax rate. Employers with 5,000 or more employees shall provide a monthly or quarterly breakdown of the year's earnings. Employers with fewer than 5,000 employees may submit an annual amount only, although a monthly or quarterly breakdown is preferable. Gross earnings are to be counted for the same time period as used in determining the employer's annual report of creditable compensation. The reports are to be prepared in accordance with prescribed instructions and filed in accordance with §209.4 of this part.

(Approved by the Office of Management and Budget under control number 3220-0132)

[49 FR 46729, Nov. 28, 1984, as amended at 55 FR 26430, June 28, 1990; 57 FR 4365, Feb. 5, 1992; 59 FR 2292, Jan. 14, 1994. Redesignated and amended at 63 FR 32613, 32614, June 15, 1998]

### §209.14 Report of separation allowances subject to tier II taxation.

For any employee who is paid a separation payment, the employer must file a report of the amount of the payment. This report shall be submitted to the Board on or before the last day of the month following the end of the calendar quarter in which payment is made. The report is to be prepared in accordance with prescribed instructions and filed in accordance with §209.4 of this part.

(Approved by the Office of Management and Budget under control number 3220-0173)

[63 FR 32614, June 15, 1998]

### §209.15 Compensation reportable when paid.

(a) *General.* In preparing a report required under this part, an employer may report compensation in the report required for the year in which the compensation was paid even though such compensation was earned by the employee in a previous year. If compensation is reported with respect to the year in which it was paid, it shall be credited by the Board to the employee in such year unless within the four year period provided in §211.15 of this chapter the employee requests that such compensation be credited to the

year in which it was earned. If the employee makes such a request, and the Board determines that the compensation should be credited to the year in which it was earned, the reporting employer must file an adjustment report as required by §209.9 of this part which reports such compensation in the year in which it was earned. The employee may revoke his or her request anytime prior to the filing of the adjustment report. Upon the Board's receipt of the adjustment report, the request becomes irrevocable.

(b) *Pay for time lost.* Compensation which is pay for time lost, as provided in §211.3 of this chapter, shall be reported with respect to the period in which the time and compensation were lost. For example, if an employee is off work because of an on-the-job injury for a period of months in a given year and in a later year receives a payment from his or her employer to compensate for wages lost during the period of absence, the employer must, by way of adjustment provided for in §209.9 of this part, report the compensation with respect to the year in which the time and compensation were lost.

(c) *Separation allowance or severance pay.* A separation allowance or severance payment shall be reported in accordance with §209.14 of this part.

(d) *Miscellaneous pay.* Miscellaneous pay, as defined in §211.11 of this chapter, shall be reported in the year paid and reported on the annual report of compensation as provided for in §209.8 of this part.

(e) *Vacation pay.* Vacation pay may be reported in accordance with this section except that any payments made in the year following the year in which the employee resigns or is discharged shall be reported by way of adjustment under §209.9 of this part as paid in the year of resignation or discharge.

[58 FR 45250, Aug. 27, 1993, as amended at 63 FR 32614, June 15, 1998]

### §209.16 Disposal of payroll records.

Employers may dispose of payroll records for periods subsequent to 1936, *provided that* the payroll records are more than five years old and that there is no dispute pending pertaining to the