

Railroad Retirement Board

§ 322.9

to an employee who voluntarily or involuntarily terminates his or her employment relationship is not remuneration with respect to any day after the employment relationship is severed. An employee who is paid a separation allowance, whether in a lump sum or in installments, is disqualified by section 4(a-1)(iii) of the Railroad Unemployment Insurance Act from receiving unemployment or sickness benefits for the period of time approximating the length of time it would have taken the employee to earn, at his or her "straight" time rate of pay, the amount of the separation allowance if he or she had continued working in the job from which he or she separated.

[65 FR 14460, Mar. 17, 2000]

§ 322.8 Miscellaneous income.

(a) *Income from self-employment.* In determining whether income from self-employment is remuneration with respect to a particular day or particular days, consideration shall be given to whether, and to what extent, (1) such income can be related to services performed on the day or days and (2) the expenses of the self-employment can be attributed to the day or days. Income from services performed by an individual on a farm which he owns or rents, or in his own mercantile establishment, ordinarily is not remuneration with respect to any day.

(b) *Income from investment.* Income in the form of interest, dividends, and other returns on invested capital which is not coupled with the rendition of personal services shall not be regarded as remuneration.

(c) *Commissions on sales.* Commissions on sales shall be regarded as remuneration with respect to the day or days on which sales are made.

(d) *Payments for service as a public official.* In determining whether income for service as a public official is remuneration and, if so, the particular day or days with respect to which such remuneration is payable or accrues, consideration shall be given to such factors as (1) the amount of the income; (2) the terms and conditions of payment; (3) the character and extent of the services rendered; (4) the importance, prestige, and responsibilities attached to the position; (5) the day or days on

which services, or readiness to perform services, are required; and (6) the provisions of the applicable statutes.

(e) *Payments to local lodge officials.* A payment by a local lodge of a labor organization to an employee for services as a local lodge official shall be regarded as subsidiary remuneration if such payment does not exceed an average of \$15 a day for the period with respect to which it is payable or accrues, unless there is information that the work from which the payment is derived does not require substantially less than full time as determined by generally prevailing standards, or is not susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

(f) *Public relief payments.* Public relief payments made in consideration of need shall not be regarded as remuneration.

[Board Order 59-73, 24, 2487, Mar. 31, 1959, as amended at 65 FR 14460, Mar. 17, 2000]

§ 322.9 Subsidiary remuneration.

(a) *Definition.* The term "subsidiary remuneration" means remuneration not in excess of an average of \$15 per day for the period with respect to which it is payable or accrues, if

(1) The work from which the remuneration derives requires substantially less than full time as determined by generally prevailing standards; and

(2) The work is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

(b) *Exception.* If a claimant's remuneration is "compensation" as defined in part 302 of this chapter, such remuneration is not subsidiary unless the claimant had base year compensation from a different position or occupation of not less than two and one-half times the monthly compensation base for months in the base year in which he or she received the remuneration. Compensation in excess of an average of \$15 per day is remuneration for the days for which it is payable or accrues.

(c) *Period for which remuneration is payable or accrues.* The "period" of time