

Railroad Retirement Board

§211.4

under subparagraph (F) or (J) of section 1101(a)(15) of title 8, U.S.C. and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

(3) Remuneration paid in certain cases, as described below, for services performed for a local lodge or division of a railway labor organization.

(i) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after 1936 and prior to April 1, 1940, shall not be creditable as compensation in a month unless taxes with respect to such remuneration were paid under the Railroad Retirement Tax Act prior to July 1, 1940.

(ii) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after March 31, 1940, and prior to January 1, 1975, shall not be creditable as compensation in a month if the amount of such remuneration earned in the month is less than \$3.00.

(iii) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after December 31, 1974, shall not be creditable as compensation in a month if the amount of such remuneration earned in the month is less than \$25.00.

(4) Payments for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering the service has not previously rendered service, other than as a delegate, which may be included in the individual's years of service;

(5) Except as provided in §211.2(b)(11), the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer which makes provisions for employees generally (or for employees generally and their dependents), or for a class or classes of employees (or for a class or classes of employees and their dependents), on account of sickness or accident disability, or medical, or hospitalization expenses in connection

with sickness or accident disability; and

(6) Any amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred, or reasonably expected to be incurred in the business of the employer, provided the payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

[49 FR 46732, Nov. 28, 1984, as amended at 53 FR 17184, May 16, 1988; 58 FR 45251, Aug. 27, 1993]

§211.3 Compensation paid for time lost.

(a) A payment made to an employee for a period during which the employee was absent from the active service of the employer is considered to be pay for time lost and is, therefore, creditable compensation. Pay for time lost as an employee includes:

(1) Pay received for a certain period of time due to personal injury, or

(2) Pay received for loss of earnings for a certain period of time, resulting from the employee being placed in a position or occupation paying less money. In reporting compensation which represents pay for time lost, employers shall allocate the amount paid to the employee to the month(s) in which the time was actually lost. The entire amount of any payment made to an employee for personal injury is considered pay for time lost unless, at the time of payment, the employer states that a particular amount of the payment was for reasons other than pay for time lost.

(b) Where pay for time lost is allocated to the month(s) in which the time was actually lost, the Board will accept the allocation made by the parties involved if it relates to the employee's normal monthly pay. A reasonable relationship to an employee's normal monthly pay is ordinarily no less than ten times the employee's daily pay rate.

§211.4 Vacation pay.

Payments made to an employee with respect to vacation or holidays shall be

§211.5

considered creditable compensation whether or not the employee takes the vacation or holiday.

[58 FR 45251, Aug. 27, 1993]

§211.5 Employee representative compensation.

All payments made by a railway labor organization to an individual who is an employee representative as a result of the position or office he occupies with such organization are creditable as compensation, including payments made for services not connected with the representation of employees, except that payments in excess of the annual maximum amount will not be credited.

[53 FR 17184, May 16, 1988]

§211.6 Compensation based on waiver or refund of organization dues.

A waiver or refund of organization dues which was based solely on consideration for membership in the organization is considered creditable compensation if there is proof that the waiver or refund was intended to be, and was accepted as, a dismissal of an obligation of the organization to compensate the employee for services rendered.

[53 FR 17184, May 16, 1988]

§211.7 Compensation credited for creditable military service.

In determining the creditable compensation of an employee, the following amounts shall be credited for each month of military service, provided the employee's combined monthly railroad and military compensation does not exceed the maximum creditable amount:

(a) \$160 for each calendar month before 1968;

(b) \$260 for each calendar month after 1967 and before 1975;

(c) For years after 1974, the actual military earnings reported as wages under the Social Security Act.

[53 FR 17184, May 16, 1988]

§211.8 Displacement allowance.

An allowance paid to an employee because he has been displaced to a lower

20 CFR Ch. II (4-1-10 Edition)

paying position is creditable compensation.

[58 FR 45251, Aug. 27, 1993]

§211.9 Dismissal allowance.

Dismissal allowances paid to an employee under a protective labor agreement that covers the amounts paid for specific periods of time are creditable as compensation under the Railroad Retirement Act, provided the employee has not severed his or her employee-employer relationship.

[53 FR 17184, May 16, 1988, as amended at 58 FR 45251, Aug. 27, 1993]

§211.10 Separation allowance or severance pay.

Separation or severance payments are creditable compensation except that no part of such payment shall be considered creditable compensation to any period after the employee has severed his or her employer-employee relationship except as provided for in §211.11 of this part.

[58 FR 45251, Aug. 27, 1993]

§211.11 Miscellaneous pay.

Any payment made to an employee by an employer which is excluded from compensation under the Railroad Retirement Act, but which is subject to taxes under the Railroad Retirement Tax Act, shall be considered compensation for purposes of this part but only for the limited purpose of computing the portion of the annuity computed under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act (commonly called the tier I component).

[58 FR 45251, Aug. 27, 1993]

§211.12 Compensation credited for title VII benefits.

Payments made to an employee under title VII of the Regional Rail Reorganization Act of 1973 are creditable as compensation only for the month in which the employee first filed an application for benefits under that Act. The compensation to be credited cannot exceed the monthly creditable amounts defined in §211.13(a) of this part for compensation earned prior to 1985 or the annual creditable amount defined