

APRIL 30, 1998
L-98-11

TO : Wayne J. Scharnak
Compensation and Employer Services
Bureau of Assessment and Training

FROM : Steven A. Bartholow
Deputy General Counsel

SUBJECT : Reporting of Compensation

This is in response to your memorandum of April 1, 1998, with regard to reporting of compensation.

In your memorandum you state that prior to the enactment of section 1(h)(8) of the Railroad Retirement Act (RRA), compensation was not separable from a service month, that is, if an employee earned compensation under the RRA in a given month he or she was also credited with a month of service for that month. Section 1(h)(8) provided for the crediting of payments which would be excluded from the definition of compensation generally, but which are subject to taxation under the Railroad Retirement Tax Act for purposes of computing the tier I component of a railroad retirement annuity. Such payments are considered to be compensation for tier I purposes, but do not provide additional service credits. Because of the limitations of our reporting systems, which would not process an annual report which contained compensation reported for a month without service in that month, a separate report was required for compensation required to be reported under section 1(h)(8).

You inquire whether the agency is required to collect reports of miscellaneous compensation separately from regular compensation or may it be reported along with regular compensation on the annual report filed by employers. It is our understanding that the main reason why miscellaneous compensation has been collected separately was because our reporting systems would not accept a report of compensation not connected with a month of service. If this problem has been corrected, there is no legal objection to collecting miscellaneous compensation on the report of annual compensation. However, there should be safeguards in place which ensure that only the correct amount of compensation is used for computation purposes. Finally, I should note that your memorandum appears to imply that separation payments paid after the last month worked are subject to contributions under the Railroad Unemployment Insurance Act. This is incorrect. Such payments are credited to the last month worked up to the monthly compensation base and contributions are due on that amount only.

