

# Reporting Instructions for Creditable Sickness Payments

## Chapter 1 Principles of Creditable Sick Pay

### Reporting Instructions for Creditable Sickness Payments

The Reporting Instructions for Creditable Sickness Payments provides instructions to sickness payers on reporting requirements under the Railroad Retirement Act (RRA). Such payers must file reports with the Railroad Retirement Board's Compensation and Employer Services Center (CESC) within the Office of Policy and Systems. These instructions cover forms and correspondence relating to the following subjects:

- annual tax and earnings reports of creditable sick pay;
- adjusted reports of creditable sick pay; and
- clarification of reports of creditable sick pay in order to correctly credit payee records.

### Creditable Sick Pay Compensation Defined

Creditable Sick Pay compensation is paid to an employee under a plan or agreement available on the same basis to employees in a like class and payable for days not worked on account of injury, illness, pregnancy, or childbirth. The term “Creditable Sick Pay” refers to an **RRB-approved Supplemental Sick Pay Plan** such that these sickness benefit payments are:

- limited to Tier I tax;
- creditable as Tier I compensation only;
- not creditable as to yield service months;
- not creditable as Tier II compensation; and
- not creditable as compensation under the Railroad Unemployment Insurance Act (RUIA).

If you are making sickness payments to your employees through a plan that is not approved by the RRB it is creditable as regular compensation and should be reported as Tier I, Tier II and RUIA compensation on your annual reports. To have a plan approval determination, submit the plan to: Railroad Retirement Board, Chief of RUIA, Internet and Support, 844 N. Rush Chicago IL, 60611. If you have questions, contact a CESC Specialist.

### Exceptions to Creditable Sick Pay Compensation

There are three exceptions where sick pay is not creditable or taxable as Tier I compensation. The exceptions are:

- Sick pay paid by the RRB under the Railroad Unemployment Insurance Act for an on-the-job injury; and

- Sick pay paid subsequent to the sixth month following the month the employee last worked.
- Sick pay is paid in the year after the employee died.

The exception for crediting sick pay after the sixth month following the month the employee last worked does not mean that creditable sick pay is limited to six months in a year. If an employee returns to work and is off sick again, a new six month period is counted from the month following the latest date worked.

### **Affects of Creditable Sick Pay Compensation on Retirement Benefit Payments**

It is helpful in completing railroad retirement reports to understand the relationships between creditable sick pay compensation, employment tax, and benefits under the RRA. Under the RRA, creditable compensation and retirement-survivor benefits are all based on a corresponding structure of two separate tiers. Railroad retirement taxes under the Railroad Retirement Tax Act are also computed using the tier structure. Consequently, a direct relationship exists between creditable compensation, the corresponding taxes paid to the Internal Revenue Service (IRS), and the benefits paid under the RRA. For creditable sick pay compensation only the Tier I relationship applies.

Tier I is the railroad retirement equivalent of social security. Railroad retirement and the social security systems are coordinated by law. The Tier I tax is computed on the same percentage rate and annual maximum tax base as social security. Like social security tax, Tier I tax is shared equally by employee and employer.

The Tier I portion of a railroad retirement annuity is calculated by using the social security benefit formula. It is based on an employee's lifetime combined Tier I compensation from creditable sick pay compensation, railroad employment earnings, and non-railroad social security credits.

## **Chapter 2 Reporting Sick Pay Compensation**

### **Creditable Sick Pay Compensation is Tier I Compensation**

Under the Railroad Retirement Act and Railroad Unemployment Insurance Act (RUIA), there are three types of creditable compensation which must be reported to the Railroad Retirement Board (RRB): Tier I, Tier II, and Railroad Unemployment Insurance Act compensation.

Sick Pay is only creditable as Tier I compensation. Therefore, sickness payers are required to report sickness payments as Tier I compensation to the RRB. An annuitant's sick pay compensation credits are only used in the computation of the Tier I portion of their railroad retirement annuity.

Generally, sickness payments made in a year would not exceed the Tier I maximum amount, but combined sickness payments and other Tier I compensation may exceed the maximum. To prevent crediting and taxing sickness payments in excess of the maximum, the sickness payer should obtain information about the amount of creditable Tier I compensation paid by a rail employer. See Chapter 4.

### **Notification of Compensation Maximums**

The Tier I annual maximum earnings base is established by the Social Security Administration and published in the Federal Register. On or about November 15 of each year, the RRB sends all employers, including sick pay employers, a circular letter which provides information about the tax rates and earnings maximums for the following year.

### **Compensation Reporting Responsibilities**

The responsibility for reporting compensation and depositing and reporting taxes depends on the type of sickness benefit paid and who is making the payment. The responsibilities for three types of sickness benefit payers are as follows.

#### **1. Supplemental Sick Pay Paid by the regular Rail or Labor Employer**

If the regular employer directly pays supplemental sick pay that employer is responsible for filing all reports and for withholding and paying all taxes in connection with the payment. The employer files the reports under the employer's regular BA and EIN numbers. The employer includes the supplemental sick pay compensation with all other compensation on the employee's Form W-2.

#### **2. Sick Pay Paid by RRB or an Insurance Company who has Established Sick Pay Employer Status under the Railroad Retirement and Railroad Unemployment Insurance Acts**

The RRB will assign a BA number to insurance companies who pay sickness benefits for accounting purposes. Insurance companies having employer status are referred to in these instructions as **Sick Pay employers**.

RRB Sick Pay Employer Responsibilities:

- Withhold the employee Tier I tax from the Sick Pay;
- Deposit the tax withheld with the IRS;
- Notify the regular employer of the amount of sick pay paid to its employees. (*The RRB releases Form ID-6, Transmittal Report of Tier I Tax Transactions to notify railroad employers of the amount of sickness benefits the RRB paid.*);
- File Form CT-1 with the IRS to report the employee Tier I tax withheld on the sick pay using the regular employer's EIN;
- File Form BA-3 with the RRB using the Sick Pay payer's BA number; and
- File Forms W-2 and W-3 with the Social Security Administration. (See IRS Pub 915).

Railroad Employer's Responsibilities:

- Provide the sickness payer with the last month the employee worked prior to claiming sick pay;
- The total compensation paid to the employee during the calendar year; and
- The employee's contribution to the sick pay plan, if any.

*Note: The above information is needed by the third party in order to determine the appropriate employee Tier I tax to be withheld from the sick pay.*

- Pay the employer matching Tier I tax when notified that sickness payments were made;
- Include on Form CT-1 filed with the IRS, the employer matching Tier I tax deposited for the sickness payments.

### **3. Other Sickness Payers**

Companies who do not have employer status under the Railroad Retirement or Unemployment and Sickness Insurance Acts are referred to as other third party sickness payers.

An employer may arrange for a third party to act as the employer's agent for the payment of sick pay. The employer may or may not arrange for the third party to provide administrative services for the employer such as filing Forms CT-1 and BA-3. The responsibilities are divided by agreement between the employer and the third party. If the third party does provide such administrative services, they are doing so as an agent of the railroad employer and not as an employer under the RRA. Therefore, the third party would file Form BA-3 using the rail employer's BA number. The employer would

include the supplemental sick pay compensation on the employee's Form W-2 along with other compensation.

## **Coordinating Supplemental Benefits with Bureau Unemployment Sickness Insurance**

If you are paying supplemental sick pay under a plan whereby you pay the difference between the sick benefits paid by the RRB and a set amount, such as the employee's regular salary, you must have your plan approved by the RRB. You may also want to establish a procedure whereby you receive notification from the RRB of sickness benefit payments so that your payments are coordinated with RRB Sickness benefits. Contact:

Chief of RUIA, Internet and Support  
Railroad Retirement Board  
844 North Rush Street  
Chicago, Illinois 60611-2092

## **Creditable Sick Pay vs Regular Earnings vs Non-creditable Sick Benefits**

Sometimes it is difficult to determine whether a sickness or disability payment is creditable as regular earnings or as sick pay or whether the compensation is creditable at all. The following instructions, table, and examples are to help clarify these distinctions.

### **Regular Earnings**

If an employee is covered under a plan whereby he or she receives regular earnings or salary while unable to work, this is regular earnings rather than sick pay. Payments under a wage continuation plan are generally considered regular earnings. Regular earnings are creditable as Tier I, Tier II, and RUIA compensation and generate service month credit for the months in which the compensation is paid. Any payment made through the railroad employer's regular payroll system is presumed to be regular compensation.

### **Non-Creditable Sick Benefits**

Some payments are excluded from creditable and taxable compensation by law and regulation whether paid by the employer or another party. Excluded are payments:

- made under a worker's compensation law;
- made following the sixth month after the month the employee last worked;
- made after the calendar year of the employee's death;
- made under the Railroad Unemployment Insurance Act based on an on-the-job injury;
- that exceed the Tier I earnings base;
- of medical and hospital expenses; and
- attributable to employee contributions to a sick pay plan made with after-tax dollars.

## Sick Pay vs Regular Earnings vs Non-Creditable Sick Benefits

	Type of Benefit	Regular Compensation	Sick Pay Compensation	Not Compensation Under RRA/RRTA
1	Full salary while unable to work due to illness, injury etc.	X		
2	Partial salary while unable to work.	X		
3	Sick Pay paid by employer to employees generally. (Also see #6 and #7.)		X	
4	Sick Pay paid by employer on a discretionary basis.	X		
5	Sick Pay paid by RRB, sick pay employer, or other third party. (Also see #6 and #7.)		X	
6	Sick Pay paid after the 6th month following the month the employee last worked			X
7	Sick or disability benefit paid under an insurance plan whereby employee pays the premiums			X
8	Sick or disability benefit paid under an insurance plan where the employer pays all of the premiums or cost		X	
9	Sick or disability benefit paid under an insurance plan where both the employee and employer pay part of the premiums		X *	X *
10	Supplemental Sick Pay paid by the employer		X	
11	Disability benefit based on an injury not loss of work			X

\* The sick benefits are creditable Tier I compensation in an amount based on the percent the employer pays for the sick pay insurance premium or cost.

### Examples of Above Types of Benefits

- 1 An employer pays its employees their full salary and benefits for 30, 60, or 120 days of sickness depending on the employee's seniority.
- 2 Same as #1 except employee is carried on the payroll at 80% of regular salary. For an employee to be considered in receipt of regular earnings does not require that they receive the full amount of the regular earnings. The employee would receive the employee benefits normally accruing with the payment of regular earnings.
- 3 An employer provides sick pay for all salaried employees equal to 100% of the employees' salary for up to 30 days in a calendar year.

- 4 An employer pays 30 days sick pay to employees who have maintained an above average rating during the period preceding the sickness.
- 5 An employer contracts with Provident Insurance Company to pay supplemental sickness benefits to all employees in the bargaining unit.
- 6 An employee last worked 11/10/12 and was laid off. In June 2013, the employee receives sick pay for maternity and child birth. The sick pay is not creditable or taxable because it was paid after the sixth month following the month last worked. This determination is based on the date of the payment rather than the date of the sickness. Therefore, if the above employee had given birth in December 2012 but through a processing error was not paid sickness benefits until June 2013, the benefits would still not be taxable or creditable.
- 7 The employee has \$40 withheld from his earnings each period to pay the premium for a group disability insurance which will pay full salary for 150 days should the employee become sick or injured. Even though this group plan is offered only to employees of the employer, it is a private plan because the employer incurs no cost.
- 8 The employer offers a cafeteria type benefit plan under which one of the optional benefits is sick pay. If the employee elects sick pay, he or she will be paid their full salary if they are off work due to sickness. Any sick pay paid under this option is creditable as Tier I sick pay compensation. Sick benefits paid under a cafeteria plan are considered sick pay, because they are either paid by the employer, or paid with pre-tax dollars.
- 9 The employer provides a comprehensive health care package which includes medical insurance, hospitalization, free exams, tests and inoculations, and sickness benefits. The employee contributes \$90 to the package and the employer contributes \$200 each month. If the employee receives \$950 in sick pay under this package, the sick pay is creditable and taxable in proportion to the employer's share of the cost, i.e., 200/290, or \$655.
- 10 The employer supplements sickness benefits paid by the RRB to bring the total paid to 80% of the employee's regular earnings.
- 11 The employer pays disability benefits of \$35,000 to an employee based on the employee's loss of sight which was not job related.

## Chapter 3 Sick Pay Reporting Forms

### Reporting Sick Pay

[Form BA-3](#), Annual Report of Creditable Compensation is used to report sick pay compensation. It is due by the last day of February following the year in which the sick pay compensation was paid.

[Form BA-4](#), Report of Creditable Compensation Adjustments is used to adjust sick pay compensation previously submitted that is incorrect on the employee's records. Adjustment reports of sick pay may be submitted any time throughout the year but are due no later than the last day of February following the year in which the adjustment occurred.

[Form G-440](#), Report Specifications Sheet, must accompany each of these reporting forms. Form G-440 is used for the following purposes:

- To verify receipt of the report;
- To identify the type of report that has been filed;
- To certify that the data furnished is correct.

Information on all RRB employer reporting forms can be found in Part V of the Reporting Instructions for Employers and the Labor Reporting Instructions. The instructions for completion of the forms are included on the forms themselves. When using disks or CD-Rom for reporting, data files must be in ASCII text character format. The format instructions for using automated media are in the [Appendix I](#) for each type of report you file.

### Sick Pay Adjustments

#### Adjustments

A sick pay adjustment will either increase or decrease a previous year's sick pay compensation according to the code in the appropriate item/tape position.

When the code is...	The compensation is...
4	Added for the year shown.
M	Subtracted from the compensation previously reported in the year.

A decrease adjustment report should be submitted when an overstated Tier I creditable sick pay compensation amount was previously reported.

A decrease adjustment will not be processed if the BA number on the adjustment report does not agree with the BA number on the original report, or if the adjustment results in a negative amount. Such adjustments will be referred to the employer for corrective action.

**Examples: The following examples are illustrations of Sick Pay adjustments.**

**Example A:** An employee received \$4,250 sick pay compensation in 2011 and this amount was reported on Form BA-3 in February 2012. In November 2012, the sick pay was recovered from a settlement of a personal injury claim. When the recovery was made, a Form BA-4 was filed with a decrease adjustment in the amount of \$4,250.

**Example B:** An employee received \$7,400 sick pay compensation in 2011. The Form BA-3 erroneously showed the sick pay as \$4,700. When the employee received their 2012 Form BA-6, Certificate of Service Months and Compensation, they requested that the error be corrected. To correct the error, the employer filed a Form BA-4 increase adjustment for 2011 of \$2,700.

## Chapter 4 Form CT-1

### Employer's Annual Railroad Retirement Tax Return and Tax Issues

The railroad retirement system's annuity programs are funded by mandatory employment taxes on both employees and employers under the Railroad Retirement Tax Act (RRTA). Under the RRTA, sick pay is subject only to Tier I tax. Sick pay is not subject to Tier II tax.

Under the RRTA, the Tier I tax is collected by the Internal Revenue Service (IRS) and compensation is subject to the tax rates and earnings base in effect when payment is made. In other words, taxation under the RRTA is on a paid basis and is always reported in the payment year.

#### **Sick Pay: Taxed When Paid, Reported as Taxed**

Under the Railroad Retirement Act (RRA), sick pay is creditable only by virtue of the fact that it is subject to Tier I employment tax. Consequently, sick pay should be reported for the period when payments are made; in other words, when the tax is imposed.

In this respect, sick pay differs from regular railroad retirement earnings. The general definition of compensation relates the creditability of compensation to the performance of service for which remuneration is earned. When crediting compensation under the RRA, rail carrier employers may choose to report regular compensation either to the period in which the services were rendered (earned basis) or to the period in which payment is made (paid basis). But sickness payers should simply report the sick pay for the period when paid. It is immaterial when the employee actually took the sick days which resulted in the payment.

**Summary:** For sick pay, the tax treatment of a payment under the RRTA should be consistent with the manner in which the payment is credited as compensation under the RRA.

#### **Tier I Tax: Retirement and Medicare**

Tier I tax is divided into two parts, retirement and Medicare. The amount of compensation subject to each part is different. Tier I retirement tax applies to the Tier I maximum earnings base. There is no maximum limit for the Tier I Medicare tax. Ordinarily, sickness payments received by an individual in a year would not exceed the Tier I maximum earnings base.

The aggregate amount paid for each part of the Tier I tax paid to all payees in a year is reflected on line entries on the [Form CT-1](#) 📄.

## **Form CT-1, Employer's Annual Railroad Retirement Tax Return**

Sick pay employers must file an annual tax return, Form CT-1, Employer's Annual Railroad Retirement Tax Return, with the IRS. Other third party sickness payers must provide the information to the railroad employer to be included on their CT-1. All Forms CT-1 are filed at the Kansas City Service Center of the IRS because railroad retirement tax operations are centralized there. The due date for the Form CT-1 is the same as for the Railroad Retirement Board's (RRB's) Form BA-3; the last day of February for the preceding calendar year.

Form CT-1 is an IRS form, not a RRB form. Form CT-1 and its separate instructions are released to CT-1 filers by the IRS in December of every year and they are available on the IRS website.

### **Tax Deposits**

Railroad retirement tax deposits are made to an authorized financial institution or a Federal Reserve Bank or branch, not to the IRS directly or to the RRB. The law provides penalties for late filing of a Form CT-1, late payment of taxes, or late deposits. Interest is charged on taxes paid late at the rate set by law.

### **Completing Form CT-1**

Form CT-1 is the only form on which Medicare taxes are shown. There is no report which must be filed with the RRB showing the amount of Medicare tax deducted from the sick pay received by an individual.

The following four lines on Form CT-1 relate specifically to the Tier I tax liability on sick pay:

- Tier I Employer Tax
- Tier I Employer Medicare Tax
- Tier I Employee Tax
- Tier I Employee Medicare Tax.

How these lines are completed depends upon the type of sick benefit paid and who is making the payments. The following CT-1 examples illustrate how sick pay tax may be shown on those lines.

**Example 1:** A third party sickness payer is liable for only the employee portion of the tax. Therefore, complete only the lines showing the employee portion of the tax. Enter a 0 (zero) for all other lines.

**Example 2:** An RRA covered employer which contracts with a sickness payer should only deposit the employer's share of the Tier I taxes and complete only the employer tax lines with respect to sick pay.

**Example 3:** An RRA covered employer which pays sick pay pursuant to a self-administered plan should complete the lines for both employee and employer tax. The employer is directly responsible for withholding employee tax, and depositing that tax.

**Example 4:** An RRA covered employer is responsible for payment of the employer tax on sickness payments paid to its employees by the RRB pursuant to the Railroad Unemployment Insurance Act. Based on the ID-6 information provided to the employer, the employer should complete the lines for employee tax.

### **IRS/RRB Coordination**

The IRS and the RRB have coordination procedures for their respective functions in connection with railroad retirement. A copy of each payer's completed Form CT-1 is sent to the RRB for tax reconciliation with that payer's reported creditable compensation for the year. The total creditable compensation under the RRA reported to the Compensation and Employer Services Center (CESC) for your payees for a given calendar year should be consistent with the total taxable compensation reported to the IRS on Form CT-1 for that calendar year.

### **Taxation Authority**

However, because the RRTA is under the jurisdiction of the IRS, the RRB has no authority to provide definitive answers to railroad retirement tax questions. Your tax questions can be answered by contacting an IRS CT-1 specialist at (859) 669-2134.

## **Chapter 5 Employer Coverage**

### **Coverage Status**

A Supplemental Sick Pay Plan payer may be a covered employer under the Railroad Retirement Act (RRA) or a third party that disburses Supplemental Sick Pay. A third party payer which disburses creditable sickness payments may or may not be a covered employer under the RRA.

The RRB's Office of Audit and Compliance investigates and obtains coverage information from possible covered employers. The factual background information is then forwarded to the RRB's General Counsel for review. The General Counsel then submits a written recommendation concerning the coverage or non-coverage of the employer/employee to the three-member Board for a formal determination. A coverage determination is issued when a majority of the Board Members agree on a decision. The employer/employee has the right within a year of the decision to seek reconsideration from the Board. ).

### **Changes in Coverage Status**

Under the law, it is a payer's responsibility to notify the RRB of any changes which affect its coverage status. The coverage status is then reconsidered. Send a notice of a possible coverage status change to:

**Office of Audit and Compliance**  
U.S. Railroad Retirement Board  
844 North Rush Street  
Chicago, IL 60611-2092  
**Phone:** (312) 751-4679

### **Implementation of Law**

Because the instructions are based on the implementation of the RRA and the regulations of the Railroad Retirement Board (RRB), legal citations are in some instances included for reference. A copy of the Railroad Retirement Act of 1974 may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. You may also purchase a copy of the Code of Federal Regulations, Title 20, Parts 1 to 399, which includes the requirements and forms prescribed for reporting to the RRB and the penalties for failure to report. This is published annually, usually during June, with revisions through March 31 of that year. In addition, a library with a public documents section may have copies of the RRA and regulations, or may be able to secure loan copies from another library.