

## **213.1 Local Lodge Compensation**

### **213.1.1 Before 1937**

Compensation earned before 1937 in the service of a local lodge or division of railway-labor organization employer is creditable if the service for which it was performed is creditable (see Appendix E of this chapter).

### **213.1.2 After 1936 and Before 1975**

Compensation earned after 1936 in the service of a local lodge or division of a railway-labor organization employer is disregarded for any calendar month in which it is less than \$3.00, except that such compensation is creditable if:

- A. It was earned between 12-31-36 and 4-1-40; and
- B. Taxes were paid on the compensation before 7-1-40, under the Railroad Retirement Act and
- C. It was preceded by creditable railroad service.

### **213.1.3 After 1974**

Compensation earned after 1974 in the service of a local lodge or division of a railway-labor organization employer is disregarded for any calendar month in which it is less than \$25.00.

Any compensation earned after 1974 in the service of a local lodge or division of a railway-labor organization that is \$25.00 or more must be preceded by creditable railroad service to a rail employer.

## **213.2 Compensation for Insurance Commissions**

Commissions paid to the secretary-treasurer of a local lodge or division of a railway labor organization employer for collection of insurance premiums are creditable as compensation, even if the commission is less than \$25.00 for a calendar month.

## **213.3 Payment, Waiver or Refund of Organization Dues**

A payment, waiver, or refund of organization dues by the organization is creditable as compensation only if there is evidence showing it was intended and accepted as the discharge of an obligation of the organization to compensate the employee for his services.

An amount paid, waived, or refunded solely in consideration of membership is not creditable as compensation even though the payment, waiver, or refund is made by reason of performance of valuable services to the organization.

A payment, waiver, or refund made solely as a courtesy or honor cannot be credited as compensation.

If the dues waived include additional elements such as insurance premiums which the employee would normally have to pay, the amount waived may constitute compensation if the value has been agreed upon as remuneration for service rendered.

Designation of a payment, waiver, or refund as a gratuity or by any other term which would normally indicate that the payment, waiver, or refund could not be considered as compensation, is not controlling. The facts in each case are to be considered on their merits.

#### **213.4 Services Rendered to a General Committee of a Railway-Labor Organization Employer**

When a person acts in the capacity of a general or assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer and:

- A. His office or headquarters is located outside the United States; and
- B. The individuals represented by the general committee are employees of an employer not conducting the principal part of its business in the United States; only that proportion of his remuneration may be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of the general committee bears to the total mileage under its jurisdiction. If the mileage formula is inapplicable, RRB may adopt a different formula.

If application of the prescribed mileage formula or any other formula prescribed by RRB would result in compensation of less than 10% of the remuneration for this service, no part of the compensation is creditable.

Regardless of the place of performance, all remuneration for general committee service is as creditable compensation if the employee of the general committee represents a local lodge or division whose headquarters is in the U.S., or substantially all the employees represented by the general committee are employees of an employer conducting the principal part of its business in the U.S.

#### **213.5 Delegate Service to a Convention of a Railway Organization**

Prior to 1954, remuneration paid to delegates for attending union conventions was considered "compensation" under the Railroad Retirement Act (RRA). In 1954, the RRA was amended to exclude from the definition of "compensation" remuneration paid

to delegates to a national or international convention who had previously rendered no rail service, with the exception of service as a delegate. The Railroad Retirement Board (RRB) continued to consider remuneration paid to delegates who had previously rendered rail service as "compensation" under the RRA until 1994. Effective with compensation reports submitted in October 1994 and later, the RRB adopted the policy outlined below.

To be considered creditable under the RRA, payment received by an individual must be for services rendered as an employee or employee representative. Delegates to a convention or similar meeting are not considered to be employees of the union if the delegates are not subject to the direction and control of the union while attending the convention, other than being subject to the convention's rules of conduct or procedure. If the delegates are not considered to be employees of the union, payment received in connection with attendance at a convention is not creditable or reportable compensation under the RRA or the Railroad Unemployment Insurance Act (RUIA).

To determine whether payment received by a delegate is creditable compensation, consideration should be given to the following:

- Whether the employee was paid for any services at the meeting, other than acting as a delegate; and
- Whether the payment the employee received was reimbursement for more than accountable expenses.

If either of the above conditions is met, the earnings may be creditable compensation. Document the services the employee provided and the breakdown of the payment received, and refer the case to the Compensation and Employer Services Center (CESC). CESC will determine if the earnings constitute creditable compensation.

If the earnings are determined to be creditable compensation, the case should be treated as a return to railroad service for the month of attendance. If the payment received by the delegate is not creditable compensation, the earnings are not subject to railroad retirement taxes. However, the payments do constitute income for income tax purposes and could possibly affect railroad retirement annuities as follows:

- A. **Employee Disability Annuities:** If the payment for delegate service exceeds \$850, after expenses for attending the meeting, neither the employee nor spouse is entitled to an annuity for the month in which the payment is earned. (Withheld payments will be restored if earnings for the year are less than \$10,625.) If the payment for delegate service, after deduction for the accountable expenses is \$850 or less, the earnings should be included in any report of earnings for work deduction purposes under the RRA or the Social Security Act.
- B. **Employee Age and Service Annuities:** The earnings should be included in any report of earnings for work deduction purposes under the RRA or the Social Security Act.

## **213.6 Employee Representative Compensation**

When a person occupied the position or office of employee representative and was paid remuneration in that office, all remuneration (subject to the Tier I and Tier II maximum) is credited as compensation, even though such person performed, either in connection with or outside that office or position, some services which were not directly related to the representation of employees. When a person did not occupy the position or office of employee representative and earned remuneration in another position or office not related to the representation of employees, the remuneration is not credited as compensation for employee representative service, even though he performed some services, either in connection with or outside his office or position, which were related to the representation of employees.

When a person occupied, concurrently, the position or office of employee representative and another position in some non-employee representative capacity, only the remuneration earned in the capacity of employee representative as employee representative is credited as compensation.

