

## **Reporting Instructions for Creditable Sickness Payments**

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

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#### **Creditable Sick Pay Compensation is Tier 1 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.

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#### RRB Sick Pay Employer Responsibilities:

- Withhold the employee Tier 1 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

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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 60611-1275

### **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.

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**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.

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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.