

Rail Employer Reporting Instructions
Part IV - Particular Types of Compensation Payments
Chapter 4: Vacation Pay

Chapter Overview

The instructions in this chapter are intended only to provide information on correct reporting of service and compensation in various vacation pay situations. Some examples may not be applicable to every employer.

Vacation Taken

Vacation compensation may be credited to the actual vacation period or may be credited when paid. It is assumed that only current employees with employment rights can actually take a vacation.

Service is creditable for the actual vacation period. There is no option to credit service to the month paid. For example, employee Larry Lineman took vacation from December 15 through December 29. He was paid the following January 10. Service for the vacation period is creditable to December, when the vacation was taken. The vacation compensation may be credited to December, if compensation is reported when earned, or may be credited to January if compensation is reported when paid.

Vacation Taken While Out Due to Illness

When an employee receives vacation pay in a given month during a period of absence from work due to illness, the payment for that day is considered creditable compensation. Board regulations specify that "payments made to an employee with respect to vacation...shall be considered creditable compensation whether or not the employee takes the vacation..."

If an employee is credited with vacation pay during the period of absence from work due to illness, the employee is also entitled to receive service month credit for the period the vacation is credited. Again, the employee must have an employment relationship with employment rights in order to receive a vacation.

Vacation Pay to Former Employees

If vacation pay is paid to former employees, it is presumed to be vacation payments in lieu of a vacation taken. See the section later in this chapter regarding Vacation Pay in Lieu of Vacation Period. No service month can be reported if an employee is no longer in an employment relation when paid. Thus, in the above example, if Mr. Lineman terminated his employment in November, the vacation payment made to him in January may be credited as compensation in November or January but no service month is creditable after November.

Vacation Pay Credited After Date Last Worked

Vacation pay may be credited to a period after the date last worked if the vacation period would have extended into the month after the month last worked and if the vacation had immediately followed the date last worked. However, this is not an option if the employee does not have an

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employment relation during this period. Service for a vacation period cannot be credited after the employee retires, resigns, or otherwise relinquishes their employment rights.

The option of crediting vacation pay after the employee's last workday may be exercised if it is to the employee's advantage. This situation occurs when the employee needs an additional service month for eligibility of an annuity under the Railroad Retirement Act (RRA). If the employee has already retired and has begun receiving an annuity under the RRA, additional service credit for vacation pay is generally not advantageous. An employee cannot receive an annuity under the RRA and work for an employer covered under the RRA or receive a creditable service month for the same month. If additional service is credited after the month last worked, the employee is not entitled to receive an annuity for that month. If an annuity was already paid, the amount will be recovered from the employee. If the employee chooses to receive creditable service months after his ABD, the ABD must be re-designated to the last day after the end of the vacation period.

Vacation Pay In Lieu Of Vacation Period

If a vacation period was not taken, but rather, the accrued vacation was paid in a lump sum payment(s), it is considered vacation pay in lieu of vacation taken. The vacation pay is creditable as compensation and is reported the same as you report compensation generally.

It is common to see vacation paid in lieu of a vacation period at the end of an accounting period. For example, if an employee is limited to 21 days of accrued vacation going into the new year, and the employee has accrued 22 days, one day will be paid at the end of the accounting year. Another common situation is when an employee resigns and is paid any unused vacation.

Example 1: Vacation Pay After Employee Retires

An employee worked from January through August 19, took vacation from August 20 through September 30, and retired October 1. On December 15, it was determined that the employee had three accrued vacation days that had not been taken. The three days were paid on December 28. The employee is credited with 9 service months, including the vacation month of September, but is not entitled to a service month for December. However, the vacation payment made in December is included in the employee's creditable compensation reported for the year.

Example 2: Vacation Pay In Lieu Of Vacation Period While On Medical Leave

An employee on extended medical leave has been in receipt of sickness benefits from the RRB since the beginning of the year. In June the employee requests that all accrued vacation be paid. On June 18, the employee is paid \$2600 in a lump sum. A service month is not creditable for June. The \$2600 is included in the employee's creditable compensation for the year. The employee is entitled to sickness benefits for all days in June since the vacation payment is not attributable to a vacation period.

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Example 3: Vacation Period While On Medical Leave

An employee is on extended medical leave and received sickness benefits from the RRB from the first of the year. The employee requests accrued vacation of 13 days, beginning June 24 through July 10. The employee is paid \$2000 on July 12 and \$600 on July 26, for the pay periods including the vacation days. Service months are creditable for June and July. The \$2600 is included in the employee's creditable compensation for the year. The employee is not entitled to sickness benefits for June 24 through July 10 because he/she received vacation pay for those days.

You will note that examples 2 and 3 are the same except that in example 2 the employee requested a pay-out of accrued vacation, whereas in example 3, the employee requested to take a vacation period.

Example 4: Vacation Period Taken In Individual Days While On Medical Leave

An employee is on extended medical leave and has been in receipt of sickness benefits from the RRB and supplemental sick pay from Trustmark since the beginning of the year. In June the employee requests that accrued vacation of 13 days be taken as follows:

- June 10 & 11
- July 1 & 2
- August 1 & 2
- September 3 & 4
- October 1 & 2
- November 1 & 4
- December 2

The employee is paid \$400 vacation pay in each of the months June through November and \$200 in December. The employee is credited with service for the seven months of June through December. The employee is not entitled to sickness benefits under the Railroad Unemployment Insurance Act for the days for which he took vacation. The \$2600 is included in the employee's creditable compensation for the year.

Example 5: Vacation Period Taken In Floating Vacation Days While On Medical Leave

An employee is on extended medical leave and received sickness benefits from the RRB from the first of the year. In August, the employee requests to use 2 floating vacation days the employee had earned from the previous year. He requests to take these days on August 20 and October 6. The employee is paid \$200 vacation pay for August 20 in August and \$300 vacation pay for October 6 in October. The employee is credited with service for the two months of August and October. The employee is not entitled to sickness benefits under the Railroad Unemployment Insurance Act for the days for which he took vacation. The \$500 is included in the employee's creditable compensation for the year.

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Examples 2 and 5 are similar except the employee in example 2 requested a pay-out of accrued vacation and the employee in example 5 requested to take a vacation period using a floating vacation day.

Example 6: Vacation Pay to Employee's Survivors

An employee works through April 20 and dies. On May 25, the employer pays to the survivors \$2250 for the 12 days of vacation the employee had accrued. No service can be credited to May or any other month after the month the employee dies. The \$2250 is subject to payroll taxes and is reported as creditable compensation. If, however, the accrued vacation were paid in a year subsequent to the year the employee died, the payment would not be creditable or taxable.