

Rail Employer Reporting Instructions
Part IV - Particular Types of Compensation Payments
Chapter 7: Separation/Severance Payments and Dismissal Allowances

Separation/ Severance and Dismissal Allowances are Creditable Compensation

Payments that result from the abolition of an employee's job may be known as separation, severance, termination, coordination, dismissal, continuation, or guarantee payments or allowances. By whatever name they are called, they constitute creditable and taxable compensation. The regulations of the Railroad Retirement Board (RRB) distinguish between separation or severance allowances and dismissal allowances. These two types of payments are creditable in different ways.

Know the Terminology

The term that an employer gives the allowance does not govern the rules under which the payment is taxed and credited. If the terms of an agreement meet the Railroad Retirement Act's definition of a dismissal allowance, but the employer calls it a separation allowance, the rules for a dismissal allowance will still apply.

Separation Allowance Defined

Under the Railroad Retirement Act (RRA) and Railroad Unemployment Insurance Act (RUIA), if an employee relinquishes job rights for the purpose of receiving an allowance, the payment is considered to be a separation allowance. A separation allowance is considered earned in the month that the employee fulfills the conditions necessary to receive the pay, which is usually the month in which the employment relation is severed or month last worked.

Reporting Separation/ Severance Payments

Whenever you make separation allowance or severance payments to an employee, such payments are to be reported to the RRB on [Form BA-9](#), "Report of Separation Allowance or Severance Pay". See [Part V, Chapter 6](#) for information on completing [Form BA-9](#).

Reporting Separation Allowances on an Earned Basis

Employers electing to report on an earned basis should report the entire separation allowance amount to the year last worked or to the year of separation, up to the annual maximum. If the compensation exceeds the maximum for that year, the excess Tier I compensation is reported as miscellaneous compensation on Form BA-3 in the following year. See [Part V, Chapter 3](#) for information on completing Form BA-3.

Reporting Separation Allowances on a Paid Basis

Employers electing to report on a paid basis will report the separation allowance paid in the year as compensation on their Form BA-3 annual report for that year. This is true regardless of whether the payment is made in a lump sum or in periodic installments.

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Employment Relation in Separation/ Severance Allowances

If, according to the terms of the agreement, the employee does not retain a genuine employment relation within the meaning of the RRA and receives monthly or periodic payments, the payment is considered a separation allowance. The following, although not exhaustive, is evidence that an employment relation has ended:

- The employee has resigned or relinquished employment rights from an employer;
- The employee resigns or relinquishes employment rights before receiving any payment from an employer;
- The employee may not be recalled during the period of the allowance;
- The employee may not continue to receive employee benefits.

Example of a Separation Allowance

Employee Bennie Fit last worked in June 2005 at which time his employer was downsizing. He agreed in June to accept \$48,000, paid in 24 monthly installments, in consideration of his immediate resignation. No service months are creditable after June 2005 because no employment relation existed.

Employers who elect to report compensation on an earned basis should credit all compensation paid in the 24 month period to June 2005, Mr. Fit's date last worked, by using a Form BA-3 for money paid in 2005 and a Form BA-4 for money paid in 2006 and 2007 up to the 2005 annual maximum earnings base. Employers who elect to report compensation on a paid basis should report the compensation actually paid in 2005, 2006 and 2007, on their BA-3 annual reports for those years without crediting additional service months.

Separation Allowance and Supplemental Tax

Separation allowances and severance payments are not subject to conversion to work-hours for the purpose of paying supplemental tax.

Dismissal Allowance Defined

A dismissal allowance is a type of pay for time lost, as described in [Chapter 6](#) of this Part, and is creditable as service and compensation. Whereas most pay for time lost is awarded retroactively to a prior period where earnings were lost, a dismissal allowance is usually paid as part of current payroll. For reporting purposes, a dismissal allowance appears on the report as though the employee had continued to work during the period of the allowance.

Employment Relation in Dismissal Allowance

If, according to the terms of the agreement, the employee retains a genuine employment relation within the meaning of the RRA and receives monthly or periodic payments, the payment is

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considered a dismissal allowance, not a separation allowance. The following, although not exhaustive, is evidence an employment relation exists:

- The employee has not resigned or relinquished employment rights from an employer;
- The employee resigns or relinquishes employment rights after receiving final payment from an employer;
- The employee may be recalled during the period of the allowance;
- The employee remains covered under various employee plans; or
- The employee continues to receive employee benefits.

Example of a Dismissal Allowance

Employee Morris Code last worked in June 2007 at which time his job was abolished. Based on a labor-management agreement, Mr. Code was entitled to monthly payments of \$1,000 for two years beginning in July 2007. During the two years, Mr. Code retained various employee benefits. At the end of two years, he will officially retire from his employer. Mr. Code is considered to be in receipt of a dismissal allowance. Service and compensation should be reported for the 24 months from July 2007 through June 2009 on a Form BA-3.

Determining When to Credit Compensation

As illustrated in the examples, the creditability of payments paid in consideration of termination of employment cannot be determined solely by when the payment is made and taxed. The date of the cessation of a genuine employment relation must also be considered when determining the period to which compensation is creditable.

Separation Allowance Paid With Other Payments

If both a separation allowance and some other payment are being paid at the same time, it is preferable if the two payments are issued separately. This will make clear to both the employee and the RRB, the amount of separation allowance which is subject to Tier II tax. If a separation payment and another payment are combined, the Tier II tax on the pay receipt may not agree with the amount reported on [Form BA-9](#) as subject to Tier II tax. Any such differences must be resolved. Separate payments will help to prevent unnecessary inquiries to the employer for clarification.