

212.1 Bonus Pay

Different types of bonus payments, such as safety, incentive, fuel conservation, perfect attendance, superior performance and suggestion awards constitute creditable compensation because they are payments made in consideration of services in addition to that which ordinarily are given. See [FOM1 212.2](#) for information on stock options.

212.2 Stock Options

A stock option is the right to purchase a specific number of shares of a company's stock at a future date at a pre-set price. The type of stock option determines whether remuneration from the option is compensation under the Railroad Retirement Tax Act (RRTA). With respect to QUALIFIED STOCK OPTIONS, the RRTA provides that: "The term "compensation" shall not include any remuneration on account of –(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock purchase (ISO) plan (as defined in section 422(b) of the Internal Revenue Code) or under an employee stock purchase plan (ESPP) (as defined in section 423(b) of the Internal Revenue Code), or (B) any disposition by the individual of such stock." However, a NON-QUALIFIED STOCK OPTION, which does not qualify under the aforementioned sections of the Internal Revenue Code, will result in compensation to the employee either at the time the employer grants the option to purchase to the employee, or at the time the employee sells the stock. If questions arise as to the point in time that the compensation was paid, advise the employee to contact either the railroad employer or the Internal Revenue Service.

212.4 Holiday Pay

Holiday pay or birthday bonuses are creditable compensation. In addition, service may be credited for the month of the holiday or birthday.

212.5 Productivity Fund Payments

212.5.1 General

Some railroad employers have special compensation funds that are designated as "productivity savings funds." Payments are made under cost-containment plans where distribution is made to employees for working in such a way to reduce costs. Payments are usually made once a year in a lump-sum, as a special payment for extra productivity.

Distributions from a productivity sharing savings trust fund are creditable compensation under the Railroad Retirement Act (RRA). The compensation is considered earned in the month they are deemed paid.

Example: A five-man crew agrees to operate as a four-man crew. The pay that would normally be paid to the fifth man is placed in the productivity fund. At the end of the year the money is distributed to the employees.

However, the month to which the payments are credited varies according to the employer. Conrail credits a productivity fund payment to December of the year preceding the year in which payments are made. The compensation is reported to the RRB as an adjustment in the previous year's record. The Burlington Northern Railroad Co. (BN) has separate funds and BA numbers for the Burlington Northern Region Productivity Fund (BA No. 1006) and the Frisco Region Employee Productivity Fund (BA No. 1007). The BN reports productivity fund payments at the end of the year in which payments are made; compensation will be reported for either March or October of that year.

In most situations, the productivity fund payment will be credited to a month for which the employee has already received credit for a month of service. The productivity fund payment may increase the amount of compensation credited for that month, unless the employee had maximum creditable earnings.

212.5.2 Effect on Railroad Unemployment Insurance Act

Although creditable as Railroad Unemployment Insurance Act (RUIA) compensation, based on coordination or proration with the employer, the payments do not usually yield additional RUIA compensation credit.

212.5.3 Effect on Railroad Annuity

The annuity beginning date will not be affected. If payment is made after the employee's actual last day worked, the employer's year-end report should be corrected to credit the payment to the last day worked.

212.6 Back Pay

Back pay is a retroactive wage increase. Like other compensation, back pay may be creditable for the month compensation is paid or for the period earned. Also, like other compensation, if back pay is reported for the month paid, and the employee makes a timely request that it be allocated instead to the month(s) earned, the employer must submit an adjustment report accordingly.

Service should not be reported for the month the back pay was paid unless service is otherwise creditable for that month. In the case of a retroactive wage increase, it is assumed that service has already been credited based on the initial wage payment prior to the increase.

212.7 Purchase of Employee Benefits

The payment to an employee for the termination or "purchase" of an employee right or benefit, such as seniority rights, profit sharing rights, sick benefits, etc., is creditable compensation.

212.8 Reimbursement for Expenses

Reimbursement for expenses incurred in the discharge of the duties of an employee may not be credited as compensation unless the value of the expenses was agreed upon in advance of the services as remuneration, in whole or in part, for services rendered. Compensation that includes reimbursement for expenses incurred by an individual in the course of his employment is to be credited only to the extent of the net compensation earned for personal services rendered.

212.9 Tips

Generally, the RRB has looked to the treatment the Internal Revenue Service (IRS) accords similar payments under the RRTA in determining whether certain payments are compensation under the acts administered by the RRB. Tip earnings of \$20.00 or more per month are creditable as tier I and tier II compensation and are to be included in the annual report of service and compensation. Tips are not subject to the RUIA contribution. Tip compensation is subject to employee Medicare and tier I/tier II taxes, but tax liability for tips does not extend to employers. If the employer is reporting tip income to the IRS under the Tip Rate Alternative Commitment (TRACE) program or the Tip Rate Determination Agreement (TRDA), the total amount should be reported to the RRB as creditable compensation.

212.10 Payments under Title VII of Regional Rail Reorganization Act

A separation or subsistence allowance paid under Title VII of the Regional Rail Reorganization Act of 1973 was creditable as service and compensation and was reported under the Title VII BA number (1002). An employee who received benefits under Title VII may have been entitled to an extra month of compensation and/or railroad service. This compensation and/or service could only have been allocated in certain ways.

A month of service was credited to the month the employee filed for Title VII benefits when (s)he did not work in the railroad industry that month. If the employee worked in the railroad industry that month no service month was credited based on Title VII filing.

Compensation was allocated to the month the employee filed for Title VII benefits up to the tier I and tier II maximum amounts. Compensation was allocated to the month of Title VII filing even if the additional month of service could not be credited for that month. However, if the employee already had maximum compensation, no additional compensation was added.

212.10.1 Effect on RUIA

RUIA payments did not begin to accrue until the Title VII monthly subsistence payments ended or the amount of RUIA payments is equal to the Title VII separation allowance was withheld.

212.10.2 Effect on Railroad Annuity

Title VII payments did not affect the payment of a railroad retirement annuity. The only consideration is that an employee filing for a Title VII subsistence allowance should not file a retirement or disability annuity application before he files for the Title VII payment.

212.11 Pension Payments by an Employer

Pension payments made by an employer without expectation that the employee would render services therefore, but merely to supplement an annuity or pension for which the employee might qualify, do not constitute compensation.

212.12 Military Service

Military service (MS) may be creditable as either wages or railroad compensation, as explained in FOM 215. If the MS is creditable as compensation, the amount of compensation is as follows:

212.12.1 Before 1968

The amount of compensation credited is \$160.00 a month for each month in which the employee was in creditable MS before 1968; or

212.12.2 Before 1975

The amount of compensation credited is \$260.00 a month for each month in which the employee was in creditable MS after 1967 through 1974; or

212.12.3 1975 or Later

The amount of compensation credited is the actual amount for the MS basic pay that would be creditable as wages if the MS were used as wages.

Where the employee is credited with MS as compensation for a month in which he has other creditable compensation, the MS compensation is added to the other compensation up to the tier I and tier II maximum.

