

220.1 Evidence of Compensation Paid After 1936

Evidence of compensation paid after 1936 consists of records of compensation reported periodically to the Protest Unit of Compensation and Employer Services (CESC) by covered employers, including railway-labor organization employers and employee representatives, plus supplementary statements of lag earnings furnished by employers and employee representatives as explained in [FOM 209](#).

220.2 Conclusiveness of Compensation Reports

The RRB's record of the compensation and service reported paid to an employee for a given period after 1936 is conclusive as to the amount. If no compensation was reported for any given period, it is assumed that the employee received no compensation for that period.

However, when an error in the amount of compensation reported or a failure to make a report of compensation is called to the attention of the RRB within 4 years after the last date on which a compensation report was required to be made, the RRB's records are subject to correction. A request for correction should be reported to the Protest Unit of CESC.

Beginning in 1969, all employers report compensation annually. The term "last date on which a compensation report was required to be made" means March 1 of the year following the "calendar year" during which compensation was paid by the employer.

"Last date" means the last day of the month immediately following the "calendar quarter" during which the final and conclusive determination as to the creditability of the compensation is made by the RRB when the employer failed to make a report (in whole or in part) of compensation paid an employee because the employer or employee believed, based on reasonable grounds appearing in the record, that the compensation involved was not covered by the Railroad Retirement Act (RRA).

In all other cases, when the record shows a reasonable explanation for the delay in reporting or correcting the amount of compensation, the Chief of the CESC may set a last date for the filing of such return.

220.3 Employment Data Maintenance

The Employment Data Maintenance (EDM) system contains the service and compensation for all individuals who have worked in railroad service. The Service and Compensation Analysis and Systems Section maintains the EDM program. The data on the EDM is based on the year-end earnings reports from the railroad employers. This data can be corrected only by corrected earnings reports from the railroad employers, as explained in FOM 220.2.

The EDM will also include wages for employees with 108 railroad service months or more.

220.5 Earnings When Employer Status Disputed

220.5.1 Coverage Ruling for Missouri Pacific Truck Lines and Texas Pacific Motor Transport Company

As a result of a 1978 audit by the Internal Revenue Service (IRS), the Missouri Pacific Truck Lines (MPTL) and the Texas and Pacific Motor Transport Company (TPMT) were ruled to be employers under the Railroad Retirement Tax Act (RRTA). The court has reversed the IRS decision and ruled that these employers are not employers under the RRTA. The time limit for an appeal in this case is passed. This means that earnings from the MPTL are wages, not compensation.

The Social Security Administration (SSA) has advised that all wages for the concerned employees have been posted to their social security earnings record.

220.5.2 Compensation for Trans-Mark Services, Inc., and Servitron, Inc.

- A. Background - Service by certain individuals with Trans-Mark, Inc. or Servitron, Inc. constitutes railroad service under the Railroad Retirement Act.

In March 1969, the Kansas City Southern Railway (KCSR) Company and its affiliates created two satellite companies: Trans-Mark, Inc. and Servitron, Inc. Both companies were largely staffed by former KCSR employees, who had been transferred from the KCSR payroll to those of the satellite companies. Earnings from employment with the satellite companies were reported to SSA as wages.

In July 1976, the General Counsel ruled in L-76-381 that the service of those individuals who were carried on the payrolls of Trans-Mark or Servitron, but who were performing service for the Kansas City Southern and its affiliated railroads, was creditable under the RR Act.

At the time that this decision was made, a number of Trans-Mark and Servitron employees were receiving railroad annuities based on their last day carried on the KCSR's payroll. Other individuals were receiving social security benefits based on the "wages" earned while employed by Trans-Mark or Servitron.

Because the crediting of Trans-Mark or Servitron service can affect current connection, supplemental annuity (SUPP ANN) closing data and Reg, SUP ANN or spouse annuity entitlement, any previous RRB determination made based on the incorrect use of this service was re-opened.

- B. Field Office Handling - Initial cases involving service with Trans-Mark or Servitron were marked for manual handling. Headquarters checked the folder for evidence that SSA has removed the service in question from their records and terminated

or reduced the associated social security benefit. These cases have been corrected.

220.6 Compensation Erroneously Credited as Wages (Duplicate Earnings)

A. Background

Duplicate earnings occur when an employee's earnings are posted as both RRA compensation and SSA wages. This can happen as a result of any of the following:

- The earnings report submitted to SSA by the railroad employer incorrectly identifies compensation as wages;
- SSA incorrectly posts compensation as wages to their record;
- A retroactive coverage determination is made (retroactive coverage occurs when earnings that were previously reported as wages are determined to be compensation).

This first became an issue in 1979, when SSA and the IRS changed the schedule for reporting earnings from quarterly to annually.

The inclusion of duplicate earnings in calculations can result in overstated PIAs, causing incorrect annuity amounts, overpayments, at SSA as well as RRB, and delays in payments. To prevent this, edits have been added to all our mechanical payment systems safeguarding them against such occurrences. This allows most duplicate earnings cases to be paid timely and correctly.

Occasionally, a manual computation of the PIA to exclude the duplicate earnings is still needed, causing some delay in the payment process.

B. Handling duplicate earnings inquiries

An employee or retiree may come into an RRB field office questioning his earnings record. He may have received his earnings statement from SSA and noticed that for a particular year in which he had only RR employment, SSA has credited him with wages. Usually, the amount SSA posted as wages is the same as the RR compensation posted by RRB. In this case, SSA has erroneously posted RR earnings as FICA wages to their earnings record. These wages should be removed from the SSA record. RRB has neither the capacity nor the authority to do so. Only SSA can correct SSA's records.

Generally, refer the inquirer to the local SSA district office. SSA has specific procedures in place for correcting individual earnings. Work with the local SSA office as appropriate to ensure that the inquirer's SSA record correctly reflects

railroad earnings. In special circumstances, you may request HQ (CESC) to contact SSA directly to help resolve the erroneous earnings record.

C. Requesting earnings record corrections at SSA

The specific guidelines for individual requests for earnings record corrections at SSA can be obtained from the local SSA district office. A general summary follows.

1. A written request should be filed with an SSA employee at an SSA office, or with an SSA employee authorized to receive the request somewhere other than an SSA office. The request should include the following:
 - (a) A statement that the record is incorrect;
 - (b) The period in question;
 - (c) Attached, any available evidence showing that the record is incorrect, or a description of that evidence;
 - (d) The signature of the wage earner, survivor, or authorized representative making the request.
2. SSA will initiate an investigation into the earnings discrepancy upon receipt of the request. The inquirer may be asked to complete SSA Form OAR-7008, "Statement of Employment for Wages and Self-Employment". This form is used by SSA to help them obtain more information from the inquirer that might help their investigation.
3. When necessary, the SSA district or regional office will contact employers. Provide any assistance you can to help SSA contact RR employers.
4. Upon completion of their investigation, SSA will notify the inquirer, in writing, of the results. If the inquirer disagrees with these results, appropriate reconsideration rights are included in the written notification.

NOTE: In general, there is a time limit of 3 years, 3 months, and 15 days after any year in which earnings were received for requesting a record correction at SSA. However, there are exceptions. RR earnings incorrectly posted as wages is one of the exceptions.

220.7 Coordination of Railroad Compensation Reported for Months After the Retirement Annuity Beginning Date

The records of service months on the EDM are based on the year-end earnings reports from the railroad employers.

Each year the EDM mechanically checks its database for railroad service and compensation reported by the railroad for months after the employee's retirement annuity beginning date (ABD).

When less than 3 months are posted after the retirement ABD, the EDM assumes that the discrepancy is due to vacation pay paid in lieu of vacation (see FOM 210).

A referral is produced when more than 3 months of railroad service and compensation are reported for a period after the ABD. The Wage Accounting Unit will investigate these cases and request the railroad to correct the year-end earnings report, when necessary.

For these cases, the SEARCH program will post the compensation to the date last worked, not to the months in which it is reported.

Example: The employee received a separation allowance that was paid in installments after the actual date last worked (DLW). The railroad erroneously reported service and compensation months for each installment. However, SEARCH post the total compensation to the actual DLW (before the ABD).

