

1901 Provisions of Law

1901.01 Section 2(c) of the Railroad Unemployment Insurance Act,

as amended October 9, 1996, provides, in part, that:

"...With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

Section 2(c) of the Railroad Unemployment Insurance Act

also provides, in part, that:

"...With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences."

1901.02 Section 1(f) of the Railroad Retirement Act

provides that:

"The term 'years of service' shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 3(i). Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such service or received such wages for time lost, shall constitute a year of service. Ultimate fractions shall be taken at their actual value.

"Where service prior to August 29, 1935, may be included in the computation of years of service as provided in subdivision (3) of section 3(i), it may be included as to--

- "(i) service rendered to a person which was an employer on August 29, 1935, irrespective of whether such person was an employer at the time such service was rendered;
- "(ii) service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on August 29, 1935, was an employer as defined in paragraph (i) of subsection (a)(1), irrespective of whether such predecessor was an employer at the time such service was rendered; and
- "(iii) service rendered to a person not an employer in the performance of operations involving the use of standard railroad equipment if such operations were performed by an employer on August 29, 1935."

1901.03 Section 1(g) of the Railroad Retirement Act

provides that:

- "(1) an individual shall be deemed to have been in 'military service' when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge there from; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days shall be deemed to have been active service in such force during such period.
- "(2) a 'war service period' shall mean (A) any war period, or (B) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (C) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.
- "(3) a 'war period' shall be deemed to have begun on whichever of the following dates is the earliest: (A) the date on which the Congress of the United States declared war; or (B) the date as of which the Congress of the United States declared that a state of war has existed; or (C) the date on which war was declared by one or more foreign states against the United States; or (D) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed

force of one or more foreign states; or (E) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

"(4) a 'war period' shall be deemed to have ended on the date on which hostilities ceased."

1901.04 Section 3(i) of the Railroad Retirement Act

provides that:

- "(1) The 'years of service' of an individual shall include all his service subsequent to December 31, 1936.
- "(2) The 'years of service' of an individual shall also include his voluntary or involuntary military service, within or without the United States, during any war service period: Provided, however, That such military service shall be included only if, prior to the beginning of his military service and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this Act, or lost time as an employee for which he received remuneration, or was serving as an employee representative: Provided further, That such military service shall be included only subject to and in accordance with the provisions of subdivisions (1) and (3) of this subsection in the same manner as though military service were service rendered as an employee: And provided further, That such military service rendered after December 1956 shall not be included with respect to any month if (A) any benefits are payable for that month under the Social Security Act on the basis of such individual's wages and self-employment income, (B) such military service was included in the computation of such benefits, and (C) the inclusion of such military service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable: And provided further, that an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.
- "(3) The 'years of service' of an individual who was an employee on August 29, 1935, shall, if the total number of his 'years of service' as determined under subdivisions (1) and (2) is less than thirty, also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: Provided, however, that with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on August 29, 1935, was not an employee of an employer conducting

the principal part of its business in the United States, no greater proportion of his service rendered prior to January 1, 1937, shall be included in his 'years of service' than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer subsequent to December 31, 1936. Where the 'years of service' include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service."

1902 Introduction

1902.01 General considerations

An employee's rights to an extended benefit period or to an early beginning of a benefit year are contingent upon the employee having at least 10 years of service. Prior to the enactment of the 1996 Amendments to the RUIA on October 9, 1996, the extended benefit period was longer for an employee with 15 or more years of service. An employee with 15 or more years of service and an extended benefit period beginning on or before October 8, 1996, is still entitled to 13 consecutive 14-day registration periods. For purposes of extended benefit periods and accelerated benefit years, "service" means service creditable under the Railroad Retirement Act. Such service may include service prior to 1937, as well as later service; it may include service after the base year; and it may include military service.

1902.02 Year of service

Twelve calendar months constitute a year of service. Thus, 120 months of service constitute 10 years of service, and 180 months constitute 15 years of service. However, with enactment of the 1996 Amendments to the RUIA on October 9, 1996, all employees with 10 or more years of service are entitled to the same number of extended benefit registration periods -- 7 (but not more than 65 days).

Note: For employees beginning an extended benefit period with a day before October 1, 1981, 174 months constitute 15 years of service.

1902.03 Month of service

A month of service is a calendar month in which an employee has rendered service to one or more employers for compensation or has received remuneration for time lost. Where service was performed for two or more

employers in the same calendar month, or where both employer service and military service were creditable in the same calendar month, only one month of service may be credited.

1903 Establishing Additional Service

1903.01 Development

Service in addition to that established on Board records shall be developed if the employee claims such additional service and if establishing it would entitle him or her to benefits.

1903.02 Sequence in developing service

Additional service shall be developed in the following order of precedence:

- a. service after 1936 recorded in the bureau of research and employment accounts but not reflected in the wage tape;
- b. service before 1937 or military service established by the bureau of retirement benefits;
- c. lag service;
- d. service before 1937 not credited on Board records;
- e. military service not credited on Board records.

1903.03 Acceptable records of service

Any of the following may be used in establishing an employee's years of service:

- a. any official report or certification of service issued by the bureau of research and employment accounts;
- b. Form UI-41, Supplemental Report of Service or Compensation, completed by an employer or a statement submitted by an employer in lieu of Form UI-41;
- c. Form AA-2P(R), Record of Employee's Prior Service, completed by an employer.

1904 Service after 1936

1904.01 General

Service after 1936, called subsequent service, includes all employer service performed after 1936 by an employee.

1904.02 Claim for subsequent service

If a claimant indicates that he has rendered service for an employer after December 31, 1936, in more months than are credited on Board records, he or she must submit Form UI-9, Applicant's Statement of Employment and Wages, and proof of such service. Acceptable proof of service is as follows:

- a. Form W-2, Wage and Tax Statement; or
- b. pay stubs; or
- c. statement from the employer or from claimant's supervisor verifying claimant's employment.

1904.03 Time limit

The Board's records of the compensation reported paid to an employee for a period after 1936 and the service months involved are conclusive, unless the error or omission is called to the attention of the Board within four years after the last date on which the employer was required to report such compensation to the Board.

1904.04 Authority to make determinations

The RRB's Employer Service and Training Center is authorized to make determinations of the creditability of employer service performed after 1936 for which returns of compensation have been made to the Board.

1905 Lag Service

1905.01 Lag service defined

Lag service is employer service after the base year which has not been reported to the Employer Service and Training Center.

1905.02 Acceptable record of lag service

Form UI-41, Supplemental Report of Service or Compensation, may be accepted as a valid certification of service, provided it is signed by the retirement claims contact official or is otherwise validated to show that it was cleared through proper employer channels. A statement submitted by an employer in lieu of Form UI-41 may be accepted as a valid certification of lag service.

1905.03 Authority to make determinations

The RUIA Adjudication Section is authorized to make determinations of the creditability of lag service. The claims examiner handling the case is responsible for adding the lag service to the claimant's record.

1906 Prior Service

1906.01 Prior service defined

Prior service is service performed before January 1, 1937

1906.02 Creditability

Prior service may be credited only if, on August 29, 1935, the employee was:

- a. in the active compensated service of, or in an employment relation to, an employer conducting the principal part of its business in the United States; or
- b. in active compensated service within the United States for, or in an employment relation to, an employer conducting the principal part of its business outside the United States.

The number of months of service before 1937 to be included in the employee's total years of service must be taken in reverse chronological order starting with December 1936, contingent upon verification of service. (When prior service is included in the years of service, the total years of service may not exceed 30.)

1906.03 Authority to make determinations

The Employer Service and Training Center is authorized to make determinations of the creditability of employer service performed before January 1, 1937.

1907 Military Service

1907.01 General

Military service may be included in an employee's years of service if the employee entered the Armed Forces of the United States during a "war period" or a "war service period", and if military service was preceded by railroad service in the same or preceding calendar year. These "periods" would include -

- a. the following wars:
 - World War I -- April 6, 1917 through November 11, 1918.
 - World War II -- December 7, 1941 through December 31, 1946; and
- b. the following periods:
 - National Emergency -- September 8, 1939 through June 14, 1948.
 - National Emergency -- December 16, 1950 through September 14, 1978.

National Emergency -- August 2, 1990 to date not yet determined.

- c. any other period in which the employee has military service resulting from the draft or other requirement to service; and any time for which the employee was required to continue in active service following the end of a war period.
- d. Active service of a commissioned officer of the Public Health Service at the times specified in Section 213(a) in Title 42 of the United States code may also be credited as military service provided the requirements of the RRA for crediting military service are met. (See Legal Opinion L-95-28)

1907.02 Creditability of service

Military service may be credited if the following conditions are met:

- a. Proof of active military service is obtained. Such proof consists of a certificate of discharge or release to inactive duty showing the period of claimant's active duty service. A claimant's DD-214 is acceptable proof of active military service.
- b. The service consists of one unbroken period of active duty service which falls within a war service period.
- c. Claimant's military service was preceded by railroad service in the same or preceding calendar year.
- d. The military service of a other-than-honorably discharged claimant is creditable provided the military service meets the qualifying requirements listed above.

Note: Alternate service performed by a Conscientious Objector in place of active military service is not creditable under the Railroad Retirement Act (RRA) because alternate service is not "military service" within the meaning of section 1(g) of the RRA. Consequently, alternate service cannot be used as a basis for establishing additional years of service under the RUIA.

1907.03 Authority to make determinations

The RUIA Adjudication Section is authorized to make determinations of the creditability of military service. The claims examiner handling the case is responsible for adding the military service to the claimant's record.

1908 Forms and Form Letter Prescribed

1908.01 Forms

The following forms are prescribed:

Form UI-41	Supplemental Report of Service or Compensation
Form UI-44	Claim for Credit for Military Service (Railroad Unemployment Insurance Act)
Form AA-15	Employee's Statement of Service Performed Before January 1, 1937, to Employers under the Railroad Retirement Act
Form AA-2P(R)	Record of Employee's Prior Service
Form G-122	Employee Service and Compensation Record
Form G-563	Request for Subsequent Service and Compensation Data

1908.02 Form Letters

The following form letters are prescribed:

ID-19 (11/89)

1908.03 Exhibit

The following text can be used to notify a claimant about the creditability of his or her military service.

- Your military service is not creditable under the Railroad Unemployment Insurance Act because it was not preceded by railroad service in the calendar year in which your military service began or in the preceding calendar year.
- Military service of ____ months is being included in your years of service for purposes of the Railroad Unemployment Insurance Act. (Note: If the number of months shown above does not agree with your records it may be due to the fact that you cannot receive credit for a month of military service if that month was credited to your account as railroad service.)
- Your military service papers are returned herewith.

