

## 206.1 Employee Defined

An employee is a person who is:

- In the active service of one or more "employer" for compensation; or
- In an employment relation to one or more "employer;" or
- An officer of an employer; or
- In the service of a local lodge or division; or
- An employee representative; or
- An employee of an employee representative; or
- In the service of a general committee.

## 206.2 When an Employment Relation Exists

A person has an "employment relation" if he is:

### 206.2.1 Performing Services

- A. Subject to continuing authority of the employer who supervises and directs the manner in which the employee's services are rendered; or
- B. Rendering professional or technical services integrated into the staff of the employer; or
- C. Rendering other personal services on the property used in the operations of the employer and the services are an integral part of those operations.

### 206.2.2 Other

Prior to the annuity beginning date or beginning date of a pension from the railroad, an employment relation exists for months the employee:

- A. Was on bona fide leave of absence from the employer without reference to any governing rule or practice; or
- B. Was not retired or discharged but was by reason of continuous disability unable to return to service; or
- C. Was out of service by reason of a discharge later determined to be wrongful; or

- D. Was an employee representative or employee of an employee representative, as explained in [FOM 1 213](#).

### **206.3 When an Employment Relation Does Not Exist**

An employment relation does not exist for any month after the month in which:

- The railroad retirement annuity begins; or
- The railroad private pension begins; or
- The employee resigns; or
- The employee is discharged; or
- The employee relinquishes job rights in order to receive a separation allowance or severance payments; or
- The employee dies.

Also, an employment relation does not exist if the employee's last railroad service was outside the U.S. and that service was not creditable under the Railroad Retirement Act (RRA).

### **206.4 Officer of an Employer**

An officer of an employer, performing the duties of his office for compensation, is an employee.

### **206.5 Employee of Local Lodge or Division**

A person rendering services for a local lodge or division of a railway labor organization employer, who was in the service of or in an employment relation to a carrier, on or after 8-29-35, is an employee if:

- A. Substantially all of the members of the local lodge or division are employees of an employer conducting the principal part of its business in the U.S.; or
- B. The headquarters of the local lodge or division is in the U.S. and
- C. The employee must have previously performed creditable railroad service to an employer.

### **206.6 Employee Representative**

An officer or official representative of a railway labor organization (other than a labor organization which is an employer) is an employee if he:

- A. Rendered service for an employer under the RRA before the period of service claimed as an employee representative; and
- B. Is authorized and designated to represent employee in accordance with the Railway Labor Act, as amended.

### **206.7 Employee of an Employee Representative**

A person who is regularly assigned to or regularly employed by an employee representative in connection with the duties of his office is an employee. Service as an employee of an employee representative may be credited whether or not the employee had ever been in the service of a covered employer.

### **206.8 Employee of a General Committee**

A person in the service of a general committee of a railway labor organization employer is an employee when:

- A. He represents a local lodge or division whose members are substantially all employees of an employer conducting the principal part of its business in the U.S., or the quarters of the local or division is in the U.S.; or
- B. He acts as a general or assistant general chairman of a general committee which represents persons in employer service in the U.S.

EXCEPTION: If his office or headquarters is not located in the U.S., he will NOT be an employee unless 10% of his remuneration for service in that capacity is creditable as compensation.

### **206.9 Part-Time Employee**

A part-time employee is a person who devotes relatively small amounts of time to his railroad duties. The amount of time spent in service is immaterial; the controlling factor is whether his duties are those of an employee within the meaning of the act.

### **206.10 Joint Employee**

A joint employee is a person who renders compensated service for more than one railroad employer in the same calendar month.

### **206.11 Contract Employee**

A person engaged in railroad employment under a contractual agreement is an employee, if it is clearly shown that the covered employer had continuing authority to supervise and direct the manner in which the work was done.

When a person claims that he rendered service under a contract in a professional, technical or other capacity, i.e., doctor, lawyer, consulting engineer, etc., and requests an annuity estimate or files for an annuity, request him to complete Form AA-4, "Self-Employment and Substantial Service Questionnaire." Forward the case to Headquarters for a determination as to whether the person is in railroad service or is working in self-employment as an independent contractor. The Office of General Counsel will determine if the person is in railroad service or self-employment. The final decision will be coordinated with the Policy and Systems – Compensation and Employer Service Center (P&S-CESC) to insure that records of compensation are correct.

### **206.12 Service as Substitute, Assistant or Helper**

Service rendered to an employee of a covered employer for remuneration as a substitute, assistant or helper is creditable as service to the employer if the substitute, helper or assistant was employed with the consent of the employer. Consent may be implied by knowledge on the part of the employer that the nature or volume of work required assistance for its completion.

### **206.13 Redcap Service**

A person who rendered service as a redcap or other station attendant before 9-1941, and whose duties consisted of carrying hand baggage and assisting passengers in train stations, may receive credit for all such verified service even though he received no remuneration from an employer for such service. Redcap service is further explained in Appendix A of this chapter.

