

## 208.1 Compensation Defined

Compensation is the amount an individual is paid for services performed in a month as an employee of a covered railroad employer or as an employee representative. Compensation may be creditable even if there is no credit for railroad service months. For information on determining if railroad service is creditable refer to Section 207 above.

### 208.1.1 Included as Compensation

Compensation includes:

- A Remuneration paid for time lost as an employee (see [FOM 211](#));
- B Payments in a medium other than cash (non-monetary remuneration);
- C Vacation pay and pay in lieu of vacation (see [FOM 210.1](#));
- D Earnings in the service of a local lodge (see [FOM 213](#));
- E Compensation based on military service (see [FOM 215](#));
- F Cash tips of \$20.00 or more in any calendar month after 1965;
- G Voluntary payment by the employer (without deduction from the compensation of the employee) of any tax imposed on the employee's compensation. Compensation may be credited for services rendered after June 30, 1983; and
- H Payments made under Title VII of the Regional Rail Reorganization Act of 1973.
- I Back pay
- J Separation allowance
- K Bonus pay
- L Wage continuation plans
- M The cost of group term life insurance if it is included in the gross income of an employee and subject to Railroad Retirement tax.
- N Employee contributions to Section 401(k) or Section 457 salary reduction plans are considered creditable railroad compensation at the time of contribution.

- O Cash payment under cafeteria plans. Cafeteria plans are flexible benefit plans where participating employee can choose either to receive cash or qualified benefits. If an employee elects cash, the payment is creditable as compensation.
- P Payment made after an employee's death but in the same year of death.
- Q Compensation paid to officers of a railroad excluding the Director.
- R Payments to partners in a Limited Liability Company for physical work performed. The partner pays FICA taxes on their individual tax return. There is no method by which a partner can pay RRTA taxes.
- S Compensated personal leave days.
- T Holiday pay.
- U Productivity fund payments.
- V Profit sharing/loss sharing – Employees who receive more or less than their regular earnings due to profit or loss sharing plans are credited and taxed with and taxed on the actual amount received.
- W Retention pay
- X Sick pay paid under a plan or agreement available on the same basis to employees in a like class and payable for days not worked on account of injury, illness, pregnancy, or childbirth.
- Y Payment to an employee for the termination of or 'purchase' of an employee right or benefit, such as seniority rights, profit sharing rights, sick benefits, etc.

NOTE: Some sick pay is creditable as "miscellaneous compensation" for the tier I computation only ([see FOM 211.3](#)).

### **208.1.2 Not Included as Compensation**

Compensation does not include:

- A Tips totaling less than \$20.00 in any calendar month; or
- B Other gratuitous payments unless paid for services rendered as an employee.
- C Qualified Stock Options—Any remuneration on account of A) a transfer of a share of stock to any individual through an exercise of an incentive stock option (ISO) (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.
- D Employer matching contributions to the Section 401(k) or Section 457 salary reduction plans.
  - E Sick pay paid after the sixth month following the month last worked.
  - F Contributions and payment for pension or profit sharing made under a plan that qualifies for exclusion from income under the Internal Revenue Code.
  - G Payments which are intended to supplement military pay that are paid to an employee who has been called to active military service.
  - H Payments made to an employee's survivor to an estate in the year after the employee died.
  - I Interest paid on compensation earned but not timely paid.
  - J The value of "qualified" fringe benefits received under a Section 125 cafeteria plan also known as a flexible benefits plan.
  - K Compensation paid to a non-resident alien with a "F-1" or "J-1" visa.
  - L Payments made to the director of a railroad and payments made to receivers and trustees. They are designated employers and may not be employees.
  - M Payments to partners in a Limited Liability Company is not creditable compensation.
  - N Education assistance that is excluded from compensation under Section 127 of the Internal Revenue Code.
  - O Allowances made for meals and lodgings that are excluded from compensation under Section 217 of the Internal Revenue Code.
  - P Reimbursements for moving expenses that are deductible under Section 217 of the Internal Revenue Code.
  - Q Sick pay paid by the RRB under the Railroad Unemployment Insurance Act for an on the job injury.
  - R Sick pay paid in the year after the employee died.

- S Non-Qualified Stock Option-Per the Supreme Court decision in Wisconsin Central Ltd, et al., vs. the United States on June 21, 2018, a stock option not qualifying under section 422 or 423 of the Internal Revenue Code also does not result in compensation to the employee. For additional information on the June 2018 SCOTUS decision on Stock Options, please see [RCM 5.3.88](#).

## 208.2 When Maximum Compensation in a Calendar Month is Used

The tier I computation for all annuitants and the lump-sum death benefit computation for an employee who acquires his 120th month after 12-1974 are based on primary insurance amount formulas and are subject to a yearly maximum only.

Both a monthly maximum and a yearly maximum are applicable for the following computations:

Retirement annuity tier II;

Survivor annuity tier II when based on employee's tier II;

Average monthly remuneration for lump-sum death payment basic amount when 120th service month acquired before 1975;

Residual lump-sum;

All 1937 Railroad Retirement Act computations.

## 208.3 Maximum Compensation in a Calendar Month

### 208.3.1 General

The maximum compensation that may be credited to a tier II benefit, an average monthly remuneration, a residual lump-sum or to computations under the 1937 Railroad Retirement Act for any calendar month is as follows:

Amount	From	Through	Amount	From	Through
300	--	06-30-1954	650	1-1-1968	12-31-1971
350	07-1-1954	05-31-1959	750	1-1-1972	12-31-1972
400	06-1-1959	10-31-1963	900	1-1-1973	12-31-1973
450	11-1-1963	12-31-1965	1,100	1-1-1974	12-31-1974
550	01-1-1966	12-31-1967			

### 208.3.2 Earnings Years 1975 Through 1978

The basic amount computation and the residual lump-sum computation do not include earnings after 12-1974. Therefore, beginning with 1975 or later, the monthly maximum only applies to a tier II benefit computation.

Amount	From	Through
1,175	1-1-1975	12-31-1975
1,275	1-1-1976	12-31-1976
1,375	1-1-1977	12-31-1977
1,475	1-1-1978	12-31-1978

### 208.3.3 Earnings years 1979 Through 1984

Beginning with 1979, the tier II monthly maximum schedule is based on the yearly maximum that would have applied if the 1977 Social Security Act amendments had not been enacted.

Amount	From	Through
1,575	1-1-1979	12-31-1979
1,700	1-1-1980	12-31-1980
1,850	1-1-1981	12-31-1981
2,025	1-1-1982	12-31-1982
2,225	1-1-1983	12-31-1983
2,350	1-1-1984	12-31-1984

### 208.3.4 Earnings years 1985 or Later

Effective January 1985 or later, the employee's compensation for tier II is deemed paid in equal amounts to all months in which the employee performed railroad service. However, the monthly amount credited cannot exceed the amount listed below. When the employee has compensation in excess of the tier II monthly maximum times the number of actual service months, the employee may be entitled to "deemed service months" as explained [in FOM 207.5](#).

[Click here for a chart of Tier II monthly maximum creditable earnings by year.](#)

## 208.4 Maximum Compensation in a Calendar Year

The following charts show the maximum compensation that may be credited for any calendar year.

### 208.4.1 Years In Which Compensation Maximum and Wage Maximum Differ

#### A Compensation Maximums For Years Before 1966

Maximum Amount	From	Through
3,600	--	12-31-1953
3,900*	1-1-1954	12-31-1954
4,200	1-1-1955	12-31-1958
4,550*	1-1-1959	12-31-1959
4,800	1-1-1960	12-31-1962
4,900*	1-1-1963	12-31-1963
5,400*	1-1-1964	12-31-1965

\*These figures apply to compensation only. The yearly wage maximums under the Social Security Act (SS Act) for these years are shown in the chart below.

B Wage Maximums For Years Before 1966 - The SS Act wage maximums are used instead of the Railroad Retirement Act compensation maximums for the computation of the tier I primary insurance amount (PIA 1), the residual lump-sum PIA (PIA 3), and the overall minimum guaranty PIA (PIA 9).

Wage Maximum Amount	From	Through
3,600	--	12-31-1953
3,600	1-1-1954	12-31-1954
4,200	1-1-1955	12-31-1958

4,800	1-1-1959	12-31-1959
4,800	1-1-1960	12-31-1962
4,800	1-1-1963	12-31-1963
4,800	1-1-1964	12-31-1965

#### 208.4.2 Wages and Compensation Maximums from 1966 through 1978

Comp. & Wage Maximum Amount	From	Through
6,600	1-1-1966	12-31-1967
7,800	1-1-1968	12-31-1971
9,000	1-1-1972	12-31-1972
10,800	1-1-1973	12-31-1973
13,200	1-1-1974	12-31-1974
14,100	1-1-1975	12-31-1975
15,300	1-1-1976	12-31-1976
16,500	1-1-1977	12-31-1977
17,700	1-1-1978	12-31-1978

#### 208.4.3 Tier I and Tier II Annual Compensation Maximums from 1979

Beginning with 1979, two annual compensation maximums are required: one for the tier I benefits and the other for the tier II benefits. The SS Act amendments of 1977 provided the annual maximum amount for tier I through 1981; after 1981, the maximum is automatically increased with the rise in the cost of living. The schedule of increases in the tier II amount is based on the maximum that would have applied if the 1977 SS Act amendments had not been enacted; the maximum automatically increases with the rise in the cost of living.

[Click here for a chart of Tier I and Tier II annual compensation maximums since 1979.](#)

## 208.5 Crediting Compensation on an Annual Basis

Beginning with 1985, an employee may receive credit for tier I purposes up to the tier I annual maximum regardless of when the compensation was earned and regardless of the number of service months.

Also beginning in 1985, an employee may receive credit for tier II purposes up to the tier II monthly maximum times the number of service months, including deemed service months, regardless of when the compensation was earned.

If an employee receives compensation of less than the tier II monthly maximum times the number of actual service months, including gift months, the employee is deemed to be paid in equal proportions in each service month.

### Example 1

The employee was in service throughout all of 1985. However, he was furloughed during the months of March and April.

Actual Earnings		Actual Earnings		Actual Earnings	
JAN	\$ 6,600	MAY	\$ 1,650	SEP	\$ 2,000
FEB	1,650	JUN	6,600	OCT	2,000
MAR	0	JUL	6,600	NOV	2,000
APR	0	AUG	6,600	DEC	3,000
TOTAL \$ 38,700					

In determining the tier I compensation, the employee would be given credit for \$38,700.00, \$900.00 less than the tier I annual maximum. For tier II purposes, the employee would be given credit for \$29,700.00 (the tier II maximum) spread evenly over 12 months. He would have 10 actual service months and 2 deemed service months.

### Example 2

The employee retired effective July 1, 1985, after earning more than the tier I annual maximum during the first 6 months of 1985.

Actual Earnings		Actual Earnings	
JAN	\$ 6,600	APR	\$ 6,900
FEB	6,700	MAY	7,000
MAR	6,800	JUN	6,100
TOTAL \$ 40,100			

In determining the tier I compensation, the employee would be given credit for \$39,600.00, the tier I annual maximum.

In computing the tier II, the employee would be given credit for \$14,850.00, 6 months at the tier II maximum of \$2,475.00.

### Example 3

The employee retired effective July 1, 1985, after earning \$12,000.00 during the first 6 months of 1985. He was furloughed during the months of February and April.

Actual Earnings		Actual Earnings	
JAN	\$ 3,000	APR	\$ 0
FEB	0	MAY	3,000
MAR	3,000	JUN	3,000
TOTAL \$ 12,000			

In determining the tier I compensation, the employee would be given credit for \$12,000.00. The 1985 compensation cannot be used in the primary insurance amount computation until the employee is eligible for a recomputation.

In computing the tier II, the employee would be given credit for \$12,000.00 and 5 service months ( $12,000.00/2,475.00 = 4.848$  (rounded to 5)). The employee would be deemed to have earned \$2,400.00 in each month ( $12,000.00/5 = 2,400.00$ ).

## 208.6 Service Months Credited when Earned; Compensation Credited when Paid or Earned

Service months are credited only for months in which an employment relation is maintained (see FOM [206.2](#)). Service months are reported for the month in which the employee performed the service regardless of when the employee was paid even if the employee is not paid compensation for that service until a later month.

For example, if an employee worked in December 2000 but was not paid until January 2001, the employee would receive a service month in December 2000.

No service months are reported for miscellaneous compensation. Miscellaneous compensation is any payment which is subject to Tier I taxes and is creditable as Tier I compensation only, but cannot be credited as regular compensation. In order to be creditable as miscellaneous compensation, it must meet several requirements. Please refer to the [Part IV, Chapter 2](#) of the [Reporting Instructions to Employers](#) to get a more complete explanation of miscellaneous compensation. The [Reporting Instructions to Employers](#) are in [rrb.gov](#) under the link, "Rail Employer Information."

When reporting compensation under the Railroad Retirement Act (RRA), employers may choose to report compensation one of two ways: on an earned basis or on a paid basis:

- If employers report on an earned basis, compensation is reported when the employee performed the service even if the employer did not issue a payroll check to the employee until a later time.
- If employers report on a paid basis, compensation is reported based on when the employee received payment for the service regardless of when the service was performed.

### Pay For Time Lost

Pay for time lost can only be reported on an earned basis. Pay for time lost is the only type of compensation that cannot be reported based on when the employer made the payment. Pay for time lost is a type of creditable compensation that is for wages lost for an identifiable period of absence from active service. Pay for time lost must be credited to the period for which time was lost. Pay for time lost includes:

- Personal injury settlements that allocate part of the damages as lost wages for a specific period following the injury.
- Dismissal allowances.

- Guaranteed pay.
- Displacement allowances paid for loss of earnings resulting from displacement to a less remunerative position.

Since the reporting of compensation under the RRA and the taxing of that compensation under the Railroad Retirement Tax Act (RRTA) are governed by two separate and distinct laws, the same pay could be treated differently yet properly under both laws.

**EXAMPLE 1:** An employee earned \$1,000.00 in the last pay period of the year that ran from 12/17/2000 to 12/31/2000. He relinquished his rights to railroad employment on December 31, 2000. He received his paycheck on 1/5/2001, the first Friday following the end of the pay period. The employer must post the service month the month service was performed, December 2000, if reporting on an earned basis. The employer can either report the compensation as being regular compensation creditable in December 2000 or as miscellaneous compensation in January 2001 if the other requirements are met. Under the RRTA, the \$1,000.00 is taxable in 2001 because that is the date of the payment.

**EXAMPLE 2:** An employee received \$5,000.00 on 2/21/00 as pay for time lost in March and April 1998 as a result of a personal injury. The employer must post the service months for the period time was lost, March and April 1998. Under the RRA, the employer must report the \$5,000.00 in 1998 as regular compensation. Under the RRTA, the \$5,000.00 is taxable in 2000, the year of payment.

## 208.7 Railroad Retirement Compensation Tax Rates

Before October 1, 1973, employers and employees paid the same percentage of tax on compensation under the RRTA. Effective October 1, 1973, the tax rate, including the share of the hospital insurance (HI) tax, to be paid by railroad employees was made equal to the rates paid by employees under the Social Security Act (SS Act). The railroad employer tax rate was increased to make up the difference between the employee tax rate and the total tax due.

The changes in the rates did not become applicable to steel company subsidiaries, some railway labor organizations, and dock companies under collective bargaining agreements until a date later than October 1, 1973. The effective date depended on when the labor contracts in effect on October 1, 1973 expired, or earlier if the parties to the labor contracts agreed.

The 1981 Railroad Retirement Act amendments increased the tier II tax for employers and initiated a new tier II tax for employees.

Beginning with 1985, the tax rates are applied to compensation on an annual basis instead of a monthly basis. Tier I taxes are withheld beginning in January until the employee's compensation for the year reaches the annual tier I

maximum. Tier II taxes are withheld beginning in January until the employee's compensation for the year reaches the annual tier II maximum.

Please refer to the RRB's web site, <http://www.rrb.gov>, to obtain the railroad retirement compensation tax rates. Under the heading "News and Publications" select "Statistical Information." On the "Index of Statistical Information" select "[Tax Rate and Maximum Earnings Base Information](#)" and double click on "PDF Version." This will bring you to the "Tax Rates and Maximum Taxable Earnings under Social Security, Railroad Retirement and Railroad Unemployment Insurance Programs." Be sure to obtain the tax rate information under the "Railroad Retirement Tax rate (percent)" heading. The URL (Uniform Resource Locator) is <http://www.rrb.gov/pdf/taxrate.pdf>. The document also has the Social Security Tax rates.

There is no direct relationship between the deduction of taxes and the crediting of compensation. An employee, who retires or is separated during the year, may pay tier II taxes on an amount which exceeds the amount of tier II credits that he receives, because of the tier II monthly maximum. However, the excess tier II tax just escheats to the RRB. There is no refund of this type of excess tier II tax.

**EXAMPLE:** An employee earns \$7,920.00 per month during the first 6 months of 1985 and retires effective 7-1-85. Tier I taxes are deducted from his paychecks for the first 5 months of 1985. No tier I tax is deducted from his paycheck for June as his compensation for the previous 5 months equaled \$39,600.00. Tier II taxes are deducted from his paychecks for the first 3 months and for part of April, ending when the employee has earned \$29,700.00. No tier II taxes are deducted from his paychecks for May and June.

The employee receives tier I credit for \$39,600.00 and tier II credit, subject to the tier II maximum, for \$14,850.00 ( $\$2,475.00 \times 6$  months).

**EXAMPLE:** An employee who earns \$10,000.00 per month retires effective 7-1-96. Tier II taxes are deducted from the first \$46,500.00 of compensation. However, he receives tier II credit for \$23,250.00 ( $\$3,875.00 \times 6$  months).