

Program Letter

United States Railroad Retirement Board Office of Programs



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TO: Certification Contact Officials

**SUBJECT: Employer Responsibilities Under Sections 2(f) and 12(o) of the
Railroad Unemployment Insurance Act**

This program letter supersedes program letter 2003-05 from May 2003 and provides information about what railroad employers need to know regarding sections 2(f) and 12(o) of the Railroad Unemployment Insurance Act (RUIA). **Copies of this program letter should be provided to all claims department, labor relations and payroll department personnel involved in the processing and payment of claims for pay for time lost, guarantee pay and personal injury settlements.** Printable versions of these program letters are available at RRB.gov.

General

Railroad employers are required under certain circumstances to reimburse the Railroad Retirement Board (RRB) for unemployment and sickness insurance benefits paid to their employees. Such reimbursements are required under sections 2(f) and 12(o) of the RUIA.

Section 2(f) - Section 2(f) requires that employers reimburse the RRB for benefits paid to an employee for days for which salary, wages, pay for time lost or other remuneration is later determined to be payable. Reimbursements under section 2(f) generally result from the award of pay for time lost or the payment of guaranteed wages. Please note that the term "remuneration" includes the following types of employer payments, and that the payments are, therefore, subject to the provisions of section 2(f):

- Dismissal allowances paid pursuant to labor-protective conditions imposed by the Surface Transportation Board (e.g. New York Dock or Oregon Conditions), or under any related implementing agreements;
- Coordination allowances under the Washington Job Protection Agreement of 1936;

- Annual Compensation payments under Article IV of the job stabilization agreement of February 7, 1965, or under revisions to that agreement; and
- Any similar employer payments under any merger agreement or job protection arrangement that guarantees payment of compensation during periods when an employee has been deprived of employment.

The only exception to the types of payments listed above are payments made under a non-governmental plan for unemployment insurance that the RRB has approved under section 1(j) of the RUIA. Benefits paid under a non-governmental plan do not constitute "remuneration". (See **Circular Letter No. UI-C-220, RRB Regulation Defining Non-governmental Plans for Unemployment or Sickness Insurance.**)

The statutory language of section 2(f) is as follows:

(f)"If (i) benefits are paid to any individual with respect to unemployment or sickness in any registration period, and it is later determined that remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment or sickness, and (ii) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment or sickness included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment or sickness and which are included in the period for which such remuneration is payable, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 8 of this Act with respect to contributions.

Section 12(o) - Under section 12(o), the RRB is entitled to reimbursement of benefits paid for days of sickness resulting from any injury or infirmity for which the employee is paid a personal injury settlement or damages. Section 12(o) of the RUIA reads as follows:

(o) Benefits payable to an employee with respect to days of sickness shall be payable regardless of the liability of any person to pay damages for such infirmity. The Board shall be entitled to reimbursement from any sum or damages paid or payable to such employee or other person through suits, compromise, settlement, judgment, or otherwise on account of any liability (other than a liability under a health, sickness, accident, or similar insurance policy) based upon such infirmity, to the extent that it will have paid or will pay benefits for days of sickness resulting from such infirmity. Upon notice to the person against whom such right or claim exists or is asserted, the Board shall have a lien upon such right or claim, any judgment obtained thereunder, and any sum or damages paid under such right or claim, to the extent of the amount to which the Board is entitled by way of reimbursement.

RRB Notices Under Sections 2(f) and 12(o)

Effective July 1, 2006 the RRB no longer sends form letter ID-30 (Notice Under Section 2(f) Of Railroad Unemployment Insurance Act) to payroll offices when employees indicate on unemployment applications that they may receive wage guarantee payments or pay for time lost.

Each business day the RRB sends form letter ID-4E (Notice of RUIA Claim Determination) or its electronic equivalent notice via RaiLinc to rail employers. This constitutes sufficient and timely notice of benefit payments that may be subject to reimbursement under section 2(f) of the RUIA from any salary, wages, pay for time lost, or other remuneration that may become payable for days for which benefits are paid.

You should continue to obtain information from the RRB about the amount of reimbursement due under section 2(f) by email or facsimile when:

- (1) an employee who is claiming unemployment benefits receives a coordination or dismissal allowance or may be covered under the National Job Stabilization Agreement or under a similar plan providing for a minimum amount of work or compensation, or
- (2) an employee who is claiming unemployment benefits receives pay for time lost.

A notice of lien (**Form ID-30B**) is mailed to an employer when an applicant for sickness benefits indicates that he or she has filed or expects to file a claim against the employer for personal injury. Form ID-30B is notice of the RRB's right to reimbursement of sickness benefits from any sum or damages payable on account of liability for the employee's injury or illness.

Amount of Reimbursement

Prior to payment of either pay for time lost in the form of wages or guarantee pay, or the payment of a personal injury settlement, railroad employers should contact the RRB's Sickness and Unemployment Benefits Section to obtain information about the amount of benefits to be deducted from the award for reimbursement under section 2(f) or section 12(o). See **Employer Requests for Information** below.

Section 2(f) - In general, the amount of reimbursement due under section 2(f) from the award of pay for time lost or other remuneration is the amount of benefits paid for days in the period for which the payment is to be made, or the amount of the payment for the period, whichever is less.

Section 12(o) - Under the RRB's regulations (20 CFR 341.5), the amount of reimbursement due the RRB under section 12(o) is the amount of the sickness benefits paid to the employee for the infirmity for which he or she is paid any sum or damages, or the net amount of the settlement, whichever is less. The net settlement is considered to be the amount of the damages paid with respect to the employee's injury or infirmity, minus the amounts of the medical, hospital and legal expenses incurred by the employee in connection with the injury. Medical and hospital

expenses are deductible in determining the amount of the net settlement even if they are covered by the employee's insurance.

Advances paid to an employee on a personal injury settlement are considered to be paid on account of liability and are subject to the provisions of section 12(o). This is true even if no settlement or judgment is entered, or the employee does not prevail in a court action for damages against the employer. When money is paid to an employee in the form of an advance on a personal injury settlement, keep in mind that sickness benefits paid by the RRB may be recoverable as a result of such payments.

Employer Requests for Information

Please refer to Program Letter 2006-05 from February 2006 for information about use of secure email for requesting reimbursement amounts.

Employer requests for information about amounts due under sections 2(f) and 12(o) may be made by facsimile using special forms (Forms ID-3S and ID-3U) developed by the RRB. Under normal circumstances, you will receive a reply to your request on the first business day following the RRB's receipt of your fax transmission. You may make fax requests Monday through Friday (except Federal holidays), 8:00 AM to 4:30 PM, Central Time. The fax number is (312) 751-7185.

Employers' use of Forms ID-3S and ID-3U helps to ensure that all the information we need to respond to your request is provided. The forms along with detailed instructions for their completion may be obtained by contacting our Sickness and Unemployment Benefits Section. The telephone number is (312) 751-4820. Printable document versions of the forms are available at www.rrb.gov.

The completed fax form reply from the RRB is your confirmation of the amount due under section 2(f), or the amount of the RRB's lien under section 12(o). A confirmation letter will not be sent.

Forms ID-3S or Form ID-3U may also be used for inquiries about RUIA benefit amounts paid to employees prior to any settlement or guarantee payments. Please clearly mark such forms

“For Informational Purposes Only”.

Employer Reporting Requirements

Section 2(f) - Under the RRB's regulations (20 CFR 340.16), an employer paying remuneration for time lost, including guarantee pay, must remit the amount of reimbursement due under section 2(f) within 30 days of the date of the payment of the remuneration. The following information is always needed in order to determine the amounts due under section 2(f):

- the employee's name and social security number,
- the amount of the payment,

- the time period covered by a guarantee payment
- the exact days paid in a pay for time lost claim.

Notice of the payment should be made by facsimile using Form ID-3U.

Section 12(o) - When an employer makes a settlement or must satisfy a final judgment based on an injury for which the employee received benefits, the RRB's regulations (20 CFR 341.6) provide that the employer must notify the RRB in writing of the settlement or judgment. The notice must be made within 5 days of the date of the settlement or judgment, and include:

- the employee's name and social security number,
- the amount of the settlement or judgment,
- the date of settlement or final judgment, and
- the amount withheld from the settlement or judgment to satisfy the RRB's lien.

Notice of the settlement should be made by facsimile using Form ID-3S.

Employer Reimbursement Requirements

Section 2(f) - Payment of an amount due under section 2(f) is due at the RRB within 30 days of the date of the payment of the remuneration for time lost.

Section 12(o) - Payment of the amount of the RRB's lien is due at the RRB within 30 days after the date of the settlement or final judgment. In order to insure that remittances are properly credited, be sure to include the following information on the check or on the remittance document:

- Your payor code,
- The billing document ID number, and
- Whether the remittance is for reimbursement of unemployment (UI) or sickness (SI) benefits.

Your payor code and the billing document ID number will be shown on the RRB's response to your Form ID-3S or Form ID-3U if you indicated on the form that the employee's claim has been settled, i.e. your Form ID-3S or Form ID-3U request was not for informational purposes only.

Payor codes and billing document ID numbers are also shown on the Form G-145 billing statements issued by the RRB.

If you do not know your payor code or the billing document ID number, then show on your remittance the employee's name, the employee's social security number and the date of the injury or the period of time for which reimbursement is being made.

Remittances

Please refer to Program Letter 2006-07 from September 2006, for information concerning on-line remittances via the Department of Treasury's **Pay.gov** service.

Remittances may be made electronically through the Automated Clearing House (ACH) using the RRBLINK system. If the RRBLINK system is not used, remittances are to be mailed to the RRB's lockbox which is operated by U.S. Bank. The lockbox address is:

U.S. Railroad Retirement Board
Debt Recovery Division - RUIA
P.O. Box 953492
St. Louis, Missouri 63195-3492

Although every effort is made to credit remittances to the correct account, if a remittance cannot be properly matched with the accounts receivable, a second billing notice may be issued on the debt. If you receive notice of a debt after submitting a reimbursement, please show the date and the amount of your remittance on the second notice and return a copy of the notice to the RRB.

RRBLINK - Electronic Payment System

RRBLINK is an electronic payment system designed specifically for railroad employers. In addition to paying reimbursements due under sections 2(f) and 12(o) of the RUIA, RRBLINK can be used to make various tax deposits, including unemployment insurance contributions, Employer's Annual Railroad Retirement and Unemployment Return (CT-1), Quarterly Federal Excise Tax Return (720), Employer's Annual Federal Unemployment Tax Return (940), Employer's Quarterly Federal Tax Return ([941](#)) and Annual Return of Withheld Federal Income Taxes (945).

RRBLINK payments can be initiated by a personal computer with a communications modem, a touch-tone telephone or a voice telephone. RRBLINK is the recommended method for making reimbursements under sections 2(f) and 12(o). The system ensures that payments are credited properly and timely, and helps employers avoid unwanted interest and penalty charges. Additional information about RRBLINK and enrollment instructions can be obtained by contacting the agency's RRBLINK representative at (312) 751-4668 or U.S. Bank's system administrator at (888) 273-2265.

Interest Charges

The RRB charges interest and assesses penalties on delinquent debts. The regulations of the RRB (20 CFR 340.16 (b)) require that railroad employers and other parties paying any sum or damages for personal injury reimburse the RRB for amounts due under section 12(o) of the RUIA within 30 days of the date of settlement. The RRB's notice of the lien amount is the initial notice of the amount due upon settlement. Billing statements are issued when the RRB is notified of a settlement. Amounts due under section 12(o) are due within 30 days of the settlement date.

Interest begins to accrue on the outstanding principal amount of a debt on the day of the final settlement or judgment and is charged to the delinquent account 30 days later. Thereafter, interest is charged every 30 days until the debt is paid in full. Interest is calculated according to the following formula:

$$\frac{\text{Interest Rate} \times \text{Interest Days} \times \text{Principal}}{\text{Days in the Year (365)}}$$

Example of Interest Charge Dates:

In this example, a personal injury settlement is made on June 13. The railroad must notify the RRB of the settlement by June 18. Payment is due at the RRB by July 13, 30 days after the date of settlement. If payment is not received by July 13, interest will be calculated and charged on the unpaid balance on July 13 and every 30 days thereafter until the debt is paid in full.

6/13	7/13	8/12	9/11
Settlement Date	1st Interest Charge	2nd Interest Charge	3rd Interest Charge

Accounts receivable under section 12(o) of the Railroad Unemployment Insurance Act are subject to interest at an annual rate determined by the U.S. Treasury Department.

Accounts receivable under section 2(f) of the Railroad Unemployment Insurance Act are subject to interest in the same manner as unpaid employer contributions under section 8(g) of the RUIA. Section 8(g) provides for the assessment of interest at the rate of 1 percent per month, or fraction thereof, from the due date until paid. The annual interest rate applied to debts incurred under section 2(f) is 12 percent. The rate is shown on all section 2(f) billing statements.

Penalty Charges

Debts that remain unpaid by the collection due date (30 days after the date of the billing statement) are considered delinquent. Debts which are delinquent for 90 days incur a penalty calculated at a rate of 6 percent per year assessed on the principal balance of the debt. Penalty charges continue to be assessed every 30 days until the debt is paid in full. Penalties are calculated using the following formula:

$$\frac{\text{Penalty Rate} \times \text{Penalty Days} \times \text{Principal}}{\text{Days in Year (365)}}$$

Example of Penalty Charges:

In this example, a railroad is issued a billing statement on October 1. The collection due date is October 31. If the bill is not paid in full 90 days after the collection due date, penalties will be calculated and charged on January 29, February 28 and every 30 days thereafter until the debt is paid in full.

10/1	10/31	11/30	12/30	1/29	2/28
Settlement Date	Collection Due Date	30 Days Delinquent	60 Days Delinquent	1st Penalty Calculation (90 day charge)	2nd Penalty Calculation (30 day charge)

Delinquent Debts

The RRB is required by the Debt Collection Improvement Act of 1996 to refer debts, delinquent for 180 days, to the Department of the Treasury for offset of any Federal government payments that may be due to the debtor by any Federal agency or program and for cross-servicing of the debt. Cross-servicing is an enforcement program in which debts are placed in collection programs such as referral to private collection agencies, referral to the Department of Justice, wage garnishment, etc. to enforce recovery of the debt. Charges may be added to the debt by Treasury, private collection agencies, DOJ, etc. on debts referred for offset or cross-servicing. Once a debt has been referred to Treasury, it is no longer in the RRB’s jurisdiction. After referral to Treasury, all inquiries regarding the debt should be made directly to the U.S. Treasury. Their toll free number is (888) 826-3127.

Canceling Billing Statements and Refund Procedures

Occasionally, the RRB receives premature information that a settlement has been made and a billing statement is prepared on the basis of that information. If you receive a billing statement on a case that has not yet been settled, contact our Sickness and Unemployment Benefits Section immediately by telephone or fax. The telephone number is (312) 751-4825. The billing document will be canceled and your account will be adjusted accordingly.

Under certain circumstances, railroads are entitled to refunds of amounts remitted to the RRB. Refunds of amounts that were improperly paid or are no longer due the RRB can be obtained by writing to U.S. Railroad Retirement Board, Bureau of Fiscal Operations - Debt Recovery Division, 844 N. Rush Street, Chicago, Illinois 60611-2092. Give the name and social security number of the individual for whom an incorrect remittance was made, the amount to be refunded and the reason for the refund request.

Railroad employers cannot take credit for overpaid amounts on remittances that are due on other employee accounts. Refunds of amounts incorrectly paid can only be obtained by writing to the Bureau of Fiscal Operations - Debt Recovery Division.

Paperwork Reduction Act Notice

The RRB is authorized to collect the information requested on Forms ID-3S and ID-3U under section 5(b) of the Railroad Unemployment Insurance Act (RUIA). The information is needed to determine the amount of benefits reimbursable under section 12(o) or section 2(f) of the RUIA. We estimate that Forms ID-3S and ID-3U take an average of 3 minutes per response to complete, including time for reviewing the instructions, getting the needed data, and reviewing the completed form. If you wish, send comments regarding the accuracy of our estimate or any other aspects of the forms, including suggestions for reducing completion times, to the Chief of

Information Management, Railroad Retirement Board, 844 N. Rush Street, Chicago Illinois 60611-2092.

Inquiries

Questions and inquiries concerning sections 2(f) and 12(o) of the Railroad Unemployment Insurance Act should be directed as follows:

Questions concerning Form ID-30B, and requests for information about amounts due under section 2(f) or section 12(o)

Sickness and Unemployment Benefits Section

(312) 751-4825

Fax: (312) 751-7185

Inquiries about billing statements, interest and penalty charges

Bureau of Fiscal Operations - Debt Recovery Division

(312) 751-4848

Fax: (312) 751-3364