

Railroad Retirement Board

§ 363.2

time of acquisition. The amount normally payable on property damaged beyond economical repair is found by determining its depreciated value immediately before it was damaged or lost, less any salvage value. If the cost of repair is less than the depreciated value of the property, then it is economically repairable, and the cost of repair is the amount payable.

(b) Depreciation in value of an item of personal property is determined by considering the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the date of acquisition and the date of accrual of the claim.

(c) Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter.

§ 362.13 Property recovered after payment of claim.

When previously lost or stolen property is recovered by the employee after allowance of a claim by the Board, the employee shall return the amount of reimbursement.

§ 362.14 Finality of settlement.

Notwithstanding any other provision of law, settlement of a claim under the Act and this part is final and conclusive.

§ 362.15 Agent's or attorney's fee.

Under the terms of the Act, no more than 10 percent of the amount paid in settlement of a claim submitted and settled under this part may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding.

PART 363—GARNISHMENT OF REMUNERATION OF BOARD PERSONNEL

Sec.

363.1 Authorization for garnishment of remuneration for employment paid by the Board.

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AUTHORITY: 15 U.S.C. 1673(b)(2); 42 U.S.C. 659, 661, and 662; and 45 U.S.C. 231f(b)(5) and 362(1).

SOURCE: 45 FR 28315, Apr. 29, 1980, unless otherwise noted.

§ 363.1 Authorization for garnishment of remuneration for employment paid by the Board.

(a) Remuneration for employment paid or payable by the Board is subject, in like manner and to the same extent as if the Board were a private person, to legal process brought for the enforcement of legal obligations to provide child support or to make alimony payments.

(b) Remuneration for employment includes compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes, but is not limited to, severance pay, sick pay, and incentive pay, but does not include awards for making suggestions.

(c) Remuneration for employment does not include:

(1) Amounts required by law to be deducted, including but not limited to Federal employment taxes and civil service retirement contributions;

(2) Amounts which are deducted as health insurance premiums;

(3) Amounts which are deducted as premiums for regular life insurance coverage; and

(4) Amounts which are properly withheld for Federal, state, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual concerned claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding).

§ 363.2 Definitions.

(a) *Child support* means periodic payments of funds for the support and maintenance of a child or children; such term also includes attorney's fees, interest, and court costs, when and to the same extent that they are expressly made recoverable pursuant to a

decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction.

(b) *Alimony* means periodic payments of funds for the support and maintenance of a spouse or former spouse and, subject to and in accord with state law, includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; such term also includes attorney's fees, interest, and court costs, when and to the extent that they are expressly made recoverable pursuant to a decree, order, or judgment issued in accord with applicable state law by a court of competent jurisdiction. Alimony does not include any payment or transfer of property or of its value in compliance with any community property settlement, equitable distribution of property, or other division of property, nor does it include any payment to an estate.

(c) *Legal process* means any court order, summons, or other similar process, including administrative orders, in the nature of garnishment, which is directed to and the purpose of which is to compel the Board to make a payment from moneys which are otherwise payable to an individual, to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments. Legal process additionally includes assignments in lieu of garnishment, but only where grounds for the issuance of legal process in the nature of garnishment exist. Such assignments are revocable.

§ 363.3 Procedure.

(a) Service of legal process brought for the enforcement of a Board employee's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, directed to the Deputy General Counsel of the Board, 844 Rush Street, Chicago, Illinois 60611, or by personal service upon the Deputy General Counsel.

(b) Where the Deputy General Counsel is effectively served with legal process relating to a Board employee's legal obligation to provide child support or to make alimony payments, he shall, as soon as possible and not later than 15 days after the date of effective

service of such process, send written notice that such process has been so served, together with a copy thereof, to the individual whose moneys are affected thereby; and, if response to such process is required, shall respond within 30 days, or within such longer period as may be prescribed by state law, after the date effective service is made. These requirements do not apply in the case of an assignment in lieu of garnishment.

[45 FR 28315, Apr. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 363.4 Exemptions.

(a) The portion of any payment due to a Board employee which is subject to legal process to enforce any order for the support of any person shall not exceed 65 percent. Where the individual is supporting a spouse or dependent child, other than a spouse or child with respect to whose support that legal process is issued, the portion subject to legal process is reduced by 10 percent. Where the alimony or support arrearage is less than 12 weeks old, the portion subject to legal process is reduced by 5 percent. If a lower limitation is provided by applicable state or local law, then that lower limitation shall be applied.

(b) In the absence of some evidence to the contrary, it will be assumed that the defendant is not supporting a spouse or dependent child other than a spouse or child with respect to whose support the legal process is issued.

§ 363.5 Miscellaneous.

(a) The Board may not be required to vary its normal disbursement cycles in order to comply with legal process.

(b) Except as provided in these regulations, the Board may not be required, in connection with proceedings under this part, to forward documents which have been sent to the Board, to an employee of the Board.

(c) Neither the Board nor any of its employees shall be liable with respect to any payment made to any individual from moneys due from or payable by the Board pursuant to legal process regular on its face, if such payment is made in accordance with this part.

(d) No employee of the Board whose duties include responding to legal process pursuant to requirements contained in this part shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the performance of the employee's duties in responding to any such process.

(e) For purposes of a proceeding under this part the Board will apply the law of the state in which the legal process is issued unless it comes to the attention of the Board that the state of issuance has no contact with the plaintiff or defendant in the action; in which case, the Board may, in its sole discretion, apply the law of any state with significant interest in the matter.

PART 364—USE OF PENALTY MAIL TO ASSIST IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Sec.

364.1 Purpose.

364.2 Definitions.

364.3 Publication of missing children information in the Railroad Retirement Board's in-house publications.

364.4 Placement of missing children posters in Board field offices.

364.5 Further study of the use of penalty mail in the location and recovery of missing children.

AUTHORITY: 39 U.S.C. 3220(a)(2).

SOURCE: 52 FR 527 Jan. 7, 1987, unless otherwise noted.

§364.1 Purpose.

These regulations, which implement 39 U.S.C. 3220, provide the standards and guidelines for the use of Board penalty mail in the location and recovery of missing children.

§364.2 Definitions.

For purposes of this part, terms are defined as follows:

All-A-Board is the Board's in-house newspaper that is published on an irregular basis about six times a year.

Field office is a Board district office. These offices are located throughout the United States.

Penalty mail means the official mail of the Board that is used to carry out the Board's duties.

Shelf life means the amount of time the Board has to remove from circulation outdated missing children information. This is a three month period, commencing with the date notice is received by the National Center for Missing and Exploited Children that such information is no longer accurate.

§364.3 Publication of missing children information in the Railroad Retirement Board's in-house publications.

(a) *All-A-Board*. Information about missing children will appear in the All-A-Board. This publication will obtain the necessary information from the National Center for Missing and Exploited Children. The editorial staff of the All-A-Board shall determine the number of children described in each issue and where this information will appear in the publication.

(b) *Other in-house publications*. The Board may publish missing children information in other in-house publications as it deems appropriate. This determination will be made in accordance with the guidelines that appear in §364.5.

§364.4 Placement of missing children posters in Board field offices.

(a) *Poster content*. The National Center for Missing and Exploited Children shall select the missing child and the pertinent information about that child, which may include a photograph of the child, that will appear on the poster. The Board will develop a standard format for these posters.

(b) *Transmission of posters to field offices*. The Board shall send the posters to its field offices in penalty mail. Those posters will be included in penalty mailings that are made in the normal course of the Board's operations.

(c) *Field office use of posters*. (1) Upon receipt of the poster, the field office will place it in the waiting room, if possible. Otherwise, the field office should put the poster in a place where it will be viewed by the public.

(2) The field office must remove and destroy the posters by the end of their shelf life. The field office also may remove posters that they believe have