

## § 345.121

other additional amounts as are required by law, by levy, by administrative offset as authorized by 31 U.S.C. 3716 and in accordance with the procedures set forth in part 367 of this chapter, or by a proceeding in court, but only if the levy is made or proceeding begun:

(1) Within 10 years after assessment of the contribution; or

(2) Prior to the expiration of any period, including extension thereof, for collection agreed upon by the Chief Financial Officer and the employer.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by the provisions of the Railroad Retirement Tax Act and the regulations thereunder, insofar as not inconsistent with the provisions in this part, shall be applicable with respect to the assessment and collection of contributions under this part.

### § 345.121 Jeopardy assessment.

(a) Whenever in the opinion of the Board it becomes necessary to protect the interests of the Government by effecting an immediate reporting and collection of an employer's contribution, the Board will assess the contribution whether or not the time otherwise prescribed by law for filing the contribution report and paying such contribution has expired, together with all penalties and interest thereon. Upon assessment, such contribution, and any penalty, and interest provided for under this part shall be immediately due and payable, and the Board shall thereupon issue immediately a notice and demand for payment of the contribution, penalty, and interest.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the Board a bond in an amount equal to the amount with respect to which the stay is desired, and with such sureties as the Board may deem necessary. Such bond shall be conditioned upon the payment of the amount (together with interest and any penalties thereon) the collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the employer may deposit with the Board bonds or notes of the United States, or

## 20 CFR Ch. II (4-1-08 Edition)

bonds or notes fully guaranteed by the United States as to principal and interest, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the Board in case of default to collect or sell such bonds or notes so deposited.

### § 345.122 Interest.

(a) *Rate.* If the employer's contribution is not paid to the Board when due and is not adjusted under § 345.118 of this part, interest accrues at the rate of 1 percent per month, or fraction of a month. Interest on past due contributions from the due date thereof until the date paid will be assessed after payment of the contributions, and notice and demand made upon the employer for payment thereof, in any case in which payment of the contribution is made before assessment under § 345.120.

(b) *Waiver of interest.* The Chief Financial Officer may waive, in whole or in part, any interest imposed by paragraph (a) of this section if in his or her judgment—

(1) There was a reasonable cause and not willful neglect for the late filing, late payment or underpayment, such as: the serious illness or death of an individual with the sole authority to execute the return and payment; fire, casualty, or natural disaster at the place where the railroad unemployment insurance records are kept; or reasons outside the employer's control, such as, the failure of the employer's bank to comply with the employer's filing and payment instructions;

(2) The amount of interest attributed to the delinquency is totally disproportionate to the period of the delay and the amount of contributions paid; and

(3) The employer's past record for timely compliance with railroad unemployment insurance reporting and payment requirements warrants such action considering such factors as the number and extent of delays associated with late reports, payments, and underpayments.

### § 345.123 Penalty for delinquent or false contribution reports.

(a) *Delinquent reports.* Unless waived under paragraph (b) of this section, the failure to file a contribution report on

## Railroad Retirement Board

## § 345.126

or before the due date shall cause a penalty to accrue of five percent of the amount of such contribution if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) *Waiver of penalty.* The Chief Financial Officer may waive all or a portion of the penalty imposed under paragraph (a) of this section consistent with the criteria applicable to waiver of interest as provided for in §345.122(b) of this part.

(c) *Penalty on net amount.* For the purpose of paragraph (a) of this section the amount of contribution required to be shown on Form DC-1 shall be reduced by the amount of any part of the contribution that is paid on or before the date prescribed for the payment of the contribution and by the amount of any credit against the contribution that may be claimed upon the DC-1.

(d) *False reports.* If a fraudulent contribution report is made, a penalty equal to 50 percent of the amount of any underpayment shall be imposed on the employer.

### § 345.124 Right to appeal the amount of a contribution, interest, or penalty.

(a) Except as otherwise provided, an employer may seek administrative review of any determination with respect to any contribution, interest, or penalty made under this part by filing a request for reconsideration with the Chief Financial Officer within 30 days after the mailing of notice of such determination. An employer shall have a right to appeal to the Board from any reconsideration decision under this section by filing notice of appeal to the Secretary to the Board within 14 days after the mailing of the decision on reconsideration. Upon receipt of a notice of an appeal, the Board may designate one of its officers or employees to receive evidence and report to the Board under the procedures set forth in part 319 of this chapter. An appeal of the contribution rate is made under §345.307 of this part.

(b) Any appeal filed under this part shall not relieve the employer from fil-

ing any reports or paying any contribution required under this part nor stay the collection thereof. Upon the request of an employer, the Board may relieve the employer of any obligation required under this part pending an appeal. Unless specifically provided by the Board, such relief shall not stay the accrual of interest on any disputed amount as provided for in §345.122 of this part.

[67 FR 13568, Mar. 25, 2002]

### § 345.125 Records.

Every employer subject to the payment of contributions for any calendar quarter shall, with respect to each such quarter, keep such permanent records as are necessary to establish the total amount of compensation payable to its employees, for a period of at least five calendar years after the date the contribution report to which the compensation relates was required to be filed, or the date the contribution is paid, whichever is later. The record should be in such form as to contain the information required to be shown on the quarterly contribution report. All records required by the regulations in this part shall be kept at a safe and convenient location accessible to inspection by the Board or any of its officers or employees, or by the Inspector General of the Railroad Retirement Board. Such records shall be at all times open for inspection by such officers or employees.

(Approved by the Office of Management and Budget under control number 3220-0012)

### § 345.126 Liens.

If any employer, after demand, neglects or refuses to pay a contribution required under this part, the amount of such contribution (including any interest, penalties, additional amount, or additions to such contribution, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such employer.