



Legal Opinion L-2006-14
July 7, 2006

U.S. Railroad Retirement Board Phone: (312) 751-7139
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Chicago Illinois, 60611-2092 Web: <http://www.rrb.gov>

In reply refer to:
widow annuitant

Dear xxxxxxxxxx:

This is in response to your letter addressed to the Office of Public Affairs of the Railroad Retirement Board, requesting "the specific provisions of law which prohibit the payment of interest on retroactive payments". Your letter has been referred to the Office of General Counsel for consideration and reply.

As you may be aware, the Railroad Retirement Board is an independent agency in the executive branch of the United States Government which administers the Railroad Retirement Act (45 U.S.C. §§ 231-231v). The Railroad Retirement Act replaces the Social Security Act for employees in the railroad industry. Railroad retirement benefits are paid to retired railroad employees, their families and survivors from the Railroad Retirement Account, which is maintained by the Department of the Treasury of the United States and is financed through taxes levied upon railroad employers and their employees by the Railroad Retirement Tax Act (26 U.S.C. §§ 3201-3241). The Tax Act is administered by the Internal Revenue Service.

As payments by a Federal agency, railroad retirement annuities are consequently subject to a long-standing rule of law, recognized by the United States Supreme Court in Library of Congress v. Shaw, 478 U.S. 310 (1986), which holds that in the absence of a contractual or statutory provision specifically authorizing payment of interest, no interest is payable on a claim against the United States. In the Shaw decision, the Court traced the source of this rule to earlier court decisions dating from the 19th century which specifically protected the United States from claims for interest that would prevail if brought against private parties. See 478 U.S. at 315-316, citing United States v. Verdier, 164 U.S. 213 (1896). The source of the rule is therefore not a specific statute, but rather a principle set forth in court decisions which apply broadly to the Federal Government.

It appears your letter relates to an August 3, 2005 decision by a hearings officer of the Board's Bureau of Hearings and Appeals which determined that the widow applicant was entitled to an earlier annuity beginning date on grounds that she had been deterred from filing an annuity application at an earlier date. While regulations of the Board at 20 CFR 217.21 permit an applicant to establish an earlier application filing date under certain specified criteria, no regulation of the Board or provision of the Railroad Retirement Act authorizes payment of interest on any retroactive payment due by operation of section 217.21. Accordingly, under the rule of law stated by the foregoing decisions of the United States Supreme Court, no interest may be paid as a result of the August 2005 decision of the hearings officer in this case.

I trust that the foregoing provides the explanation you require.

Sincerely,

Steven A. Bartholow
General Counsel