

### 5.15.1 Garnishment of Benefits

The Social Services Act of 1974 (Public Law 93-647) mandated that certain retirement benefits paid by the Railroad Retirement Board (RRB) can be subject to legal process (i.e., garnishment) to enforce an obligation for child support and/or alimony payments.

The current provisions permitting garnishment of benefits may be found in 42 U.S.C. Sec.659(a) et seq; and the Federal exemption provisions may be found at 15 U.S.C. Sec. 1672 and 1673(b). The RRB's regulations relating to garnishments are contained in the Code of Federal Regulations, Title 20, Part 350.

### 5.15.5 Definitions

- A. Garnishment - is a type of legal process. The Law defines legal process as, "any court order, summons or other similar process, including administrative orders, in the nature of garnishments, which is directed to and the purpose of which is to compel the RRB to make a payment from moneys which are otherwise payable to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments".
- B. Support Authority - is defined as the court, welfare agency, or other state office which enforces the obligation to pay the child support or alimony/maintenance.
- C. Child Support and Spousal Support - is the periodic payment of funds for the support and maintenance thereof. The terms, child support and spousal support, also includes attorney's fees, interest, and court costs when they are expressly made recoverable pursuant to a decree, order, or judgment issued by a court.

### 5.15.10 What can be Garnished

All benefits payable under any Act administered by the RRB are subject to legal process that is brought for the enforcement of legal obligations to provide child support or spousal maintenance payments. This includes the supplemental annuity and any social security benefits paid by the RRB.

Exception: Annuities unpaid at death are not subject to legal process. (i.e., If an employee has died, any accrued benefits are no longer payable to the employee but to another category of beneficiaries specified in the Railroad Retirement Act (RRA).)

- A. Retirement/Disability Benefits - The amount of the retirement benefits considered for possible garnishment is the rate after any necessary reduction, such as for the recovery of an overpayment, deduction of Medicare premiums, tax withholding, vested dual benefit cutback, payments awarded to a spouse or former spouse as part of a property settlement, or a reduction for some other reason.

- B. Survivor Benefits - The amount of survivor benefits considered for possible garnishment is the rate after any necessary reduction, such as for the recovery of an overpayment, deduction of Medicare premiums or tax withholding.
- C. Railroad Unemployment Insurance Act (RUIA) - Please refer to instructions in DPOM 800 for detailed instructions.

### 5.15.15 Jurisdiction

Court orders and related correspondence are to be sent to General Counsel (GC). Law will determine if the order applies to a beneficiary or an employee of the RRB. If the order pertains to a beneficiary, the material will be forwarded to RPS-B-2. Orders involving RRB employees will be forwarded to the Bureau of Fiscal Operations. Orders received directly will not necessitate GC intervention.

When the order is received in RPS-B-2, the clerk will make a copy of the order. A copy will be mailed to the employee. The clerk will also enter information onto STAR thus creating an assignment for the examiner. Once the order is assigned to an examiner, DATAQ, PREH, REQUEST, APPLE UPC and EDMA may need to be viewed to establish current status. If the annuitant is in current pay status or has an application pending, RPS-B-2 will handle all matters and make all decisions relating to the appropriateness and acceptability of the garnishment notice and the removal of such orders.

If the order is valid, RPS-B-2 will be responsible for the initial and post adjudication of retirement, disability and survivor annuities. However, disability ratings are still the responsibility of DPS. Effective May 1, 1997, RPS-B-2 will also handle orders involving RUIA payments.

<b>IF the legal process deduction is</b>	<b>AND an adjustment is needed for</b>	<b>THEN jurisdiction belongs to</b>
Currently in force	The employee	RPS-B-2
Currently in force	The employee and the spouse/divorced spouse	RPS-B-2 *
Currently in force	The spouse/divorced spouse only	RIS, RPS-A or RPS-B-1
No longer in force	The employee and/or the spouse/divorced spouse	RIS, RPS-A or RPS-B-1

\*RPS-B-2 is not responsible for an initial spouse/divorced spouse award. The case is to be referred to RIS after the employee award is authorized. However, RPS-B-2 is responsible for spouse to divorced spouse conversions.

If RPS-B-2 receives a garnishment order that does not pertain to an annuitant or applicant, the social security number must be verified via EDMA. If the person is listed on EDMA, check UPC to verify if RUIA payments are in force. If so, process the order accordingly. (Refer to DPOM 800.) If not, return the order to GC notating on the route slip why you are returning the order.

### 5.15.20 Evaluating Garnishment Orders

Garnishment laws and procedures vary from state to state, so it is important to read the document carefully to determine the proper course of action.

#### A. Determining the Garnishment Order is Valid

- 1) It must be "directed to the Railroad Retirement Board." The order need not specifically mention the RRB, as long as it is clear that the intent is for railroad retirement benefits to be garnished. Similarly, an order can refer to the annuitant as if he/she were an employee of the RRB rather than an annuitant and request his/her "wages" be garnished. An order addressed to RUIA and/or refers to "sickness benefits" also applies to retirement benefits unless specifically noted otherwise. Orders which include a statement that they apply to all current or future employers are considered to be directed to the RRB. An order directed to the garnishee himself would not be a valid order. An order specifically directed to a previous employer with no mention that it also applies to other employers may be valid if state law provides that an order is applicable to the subsequent payor. (In such cases, refer to GC.)
- 2) The order must clearly be for the enforcement of child and/or spousal support. As previously mentioned, this may include interest, support-related attorney's fees and court costs.

If the order is determined to be invalid, prepare a letter of explanation why the order cannot be enforced. Code letter GL-51 is used if the order is not for support. Code letter GL-52 is used if the order is not directed to the RRB. These letters are available on RRAILS. Forward the order and a copy of the response to imaging for future reference.

#### B. Determining the Amount to Withhold

Determine whether the order requests a specific amount or a recurring amount. Most orders request a recurring amount. Others specify a current obligation amount and an additional amount toward an arrearage. Some require a fee for

administrative or court costs. These amounts must be included. Recurring amounts must be converted to monthly rates as shown below.

If the request is weekly, multiply amount by 4.3333 or 52/12

If the request is biweekly, multiply amount by 2.1667 or 26/12

If the request is semimonthly, multiply amount by 2

Some orders expire after a specific period of time. Any such information is to be completed on Form G-479. Maximum and minimal withholdings are discussed in section [5.15.50](#).

#### C. Determine if a Written Response is Necessary

Various code letters have been developed for this purpose and can be found on RRAILS. A response is made if any of the following apply:

- 1) The order specifically requires one.
- 2) A response form is included with the order.
- 3) The order requires us to withhold a specified amount and advise them what was withheld, after which they will send a second order directing us to release payments.
- 4) We are unable to comply with the order.
- 5) We are unable to withhold the amount requested because it exceeds the maximum amount allowable under Federal law.

### **5.15.25 Disclosure of Information**

The RRB is restricted to the disclosure of information and records of an individual which identifies the individual to whom they pertain. Payment amounts and beginning dates may generally be furnished to a support authority. Information obtained from or about the annuitant in the course of adjudicating his/her claim, such as the annuitant's date of birth, their medical condition, names of former employers and earnings from those employers, generally cannot be disclosed. Medicare entitlement and an annuitant's address cannot be disclosed.

Support authorities should be referred to the Parent Locator Service, Office of Child Support Enforcement, Department of Health and Human Services, Aerospace Building, 370 L'Enfant Promenade, SW, Washington, DC 20447 (202-401-9373). Code letter GL-53 has been developed to address these situations and is available on RRAILS.

### 5.15.30 Consulting with the Attorney Advisor

Due to the complexity and variation of court orders, close coordination with GC is required. Promptly notify the attorney advisor when legal advice is necessary.

If the file is unavailable or if it is not necessary to forward the file to GC, the attorney advisor may be contacted by telephone or in person.

### 5.15.35 Complying with the Order

The RRB has 30 days from the date the order was received (date stamped into GC) to comply with the order. Initiating a suspension action (completing FAST) or completing a recert to apply the garnishment is considered to be complying with the order.

Suspensions are handled as follows:

For an initial or increased garnishment deduction, the garnishee annuity will be suspended using code 67 and code letter 172.

For a decrease in the garnishment deduction, the garnishment recipient will be suspended using code 67 and code letter 173.

A code 18 with no code letter will be used to terminate a garnishment payment.

### 5.15.40 Notifying the Annuitant

The RRB has 15 days from the date the court order was received (date stamped into GC) to send a copy of the order to the annuitant. The clerk in RPS-B-2 will provide a copy of the order to the annuitant. If a letter of response is necessary, include a copy of the letter along with a copy of the order to the annuitant.

### 5.15.45 Arrearage

Garnishment orders often include arrearage amounts in addition to the current monthly obligation. Determine whether the RRB or the third party will be responsible for maintaining the adjustment period on the amount withheld for the arrearage. Notate your decision on form G-479 (located on RRAILS). If the order is not recent or if it implies interest charges are added regularly to the arrearage or if it refers to an arrearage "as of" a given date, it is likely we are expected to keep withholding the extra amount until notified by the third party. If the language of the order is not clear, either contact GC (which may recommend a letter describing our action unless otherwise notified,) or contact the support authority directly.

If the deduction is not done timely or the request is greater than allowed based on the applicable exemption as explained in RCM [5.15.50](#), begin to withhold the determined deduction and notify the support authority and annuitant accordingly. Typically, the

support authority will adjust their records to reflect the amount we are able to withhold. Use code letter GL-50 (located on RRAILS) to notify the third party and the annuitant.

### 5.15.50 Exemptions

Federal law (the Consumer Protection Act) exempts a minimum of 35% of the payable railroad retirement annuity from being garnished. However, the garnishment order may exempt a higher percentage. In that case, use the higher exemption.

Note: The exempt amount should be determined after all applicable deductions, use the net annuity rate. The following describes situations which will increase the exempt percentage, thus reducing the amount withheld.

	<b>Amount Subject to Garnishment</b>	<b>Exemption</b>
Arrears More Than 12 Weeks	65 percent	35 percent
Arrears Less Than 12 Weeks	60 percent	40 percent
Garnishee Supporting Spouse/Child Not Included in Order	55 percent	45 percent
Garnishee Supporting Spouse/Child Not Included in Order and Arrears Less Than 12 Weeks	50 percent	50 percent

In the absence of evidence to the contrary, assume that the defendant is not supporting a spouse or dependent child other than those with respect to whose support the legal process is issued.

Assume there is an arrearage of more than 12 weeks (so the exemption is 35 percent) unless the order specifically states that the garnishment is current or that the arrearage is less than 12 weeks.

Example: The employee is entitled to a net tier 1 of \$1000.00, net tier 2 of \$350.00, SS benefit of \$200.00 and a supplemental annuity of \$43.00. The employee has SMIB premiums of \$42.50, partial withholding of \$25.00 and tax withholding of \$60.00. Thus, \$1465.50 represents the net annuity rate. An order is received directing the RRB to withhold and remit \$900.00 per month to the support authority based on child support. Based on evidence available, the exempt amount is 35% and the amount subject to garnishment is \$952.58. Thus, our blue Information Sheet will instruct the examiner to withhold \$900.00. Upon further investigation, a current spouse is identified, increasing the exempt amount to 45% or a withholding of \$806.03. Adjust both copies of the blue

Information Sheet and produce a letter explaining actions to the support authority and the annuitant.

### **5.15.55 Two or More Orders Against the Annuitant**

If there are two orders for two different support obligations against the same annuitant, entitlement to an additional 10% exemption based on support of two families is not permitted since both are beneficiaries of support orders.

In most cases where two or more separate garnishments are requested against an annuitant, the one received first has priority. Any non-exempt funds remaining after the first order is satisfied will be used to satisfy the second order. When the second garnishment order is received, RPS-B-2 will generally describe the situation on their Information Sheet and advise the garnishing authority what action will be taken.

### **5.15.60 Storing the Orders**

Orders processed by RPS-B-2 have been imaged. This allows for quick reference to historical information. Garnishment orders affecting RUIA payments are available on RUIA Imaging.

Whenever a new garnishment order is received for a case with previous garnishment reductions, pull the previous orders and match them with the new order for reference. Send the new order and a completed G-479 (located on RRAILS) to imaging.

### **5.15.65 Folder Documentation**

The RPS-B-2 section interprets the order and if valid, completes a garnishment Information Sheet, (located on RRAILS).form G-479. The Information Sheet contains all of the information needed for an examiner to complete the garnishment adjustment.

### **5.15.70 Name, Identification Number and Address**

Garnishment orders provide the name and address to which the payments should be sent, as well as, one or more identification numbers to be included on the checks. This information must be included on the information sheet as a folder record.

The majority of garnishment payments are directed to the support authority rather than to an individual. The garnishment information sheet states the name of the payee. In all cases, the first line of the payment input sheet must contain the name of the support authority or individual to which the payment is issued. (Refer to [RCM 8.1 Appendix A.](#)) Use appropriate abbreviations when possible to keep the name to one line. (Refer to [RCM 10.2, Appendix B.](#))

EX: ATTY GEN ST OF TEX

The identification number must be part of the name portion of the payment record. This number allows the support authority to identify the payment and the defendant. The ID# or case # must be shown on the information sheet.

There may be situations involving two or more cases with the payment going to one payee. The numbers may be combined on the check.

EX: Case # - 0001536-1

Case # - 0001536-2

On the name and address of the award, show as: - 0001536-1 and 2

EX: Case # - 4326

Case # - 1579

On the name and address of the award, show as: 4326 and 1579

When payment is directed to a support authority, the annuitant's name should follow the case#. If the name will not fit on the same line with the ID#, put the name on the following line.

EX: 0115360 J J DOE

If the payment is issued to an individual rather than a support authority, do not include the annuitant's name on the payment input sheet. However, include the ID#.

The address lines are completed according to [RCM 8.1](#).

### 5.15.75 Inquiries

All retirement/survivor/disability cases involving garnishment related inquiries are handled by RPS-B-2. (Refer to DPOM 800 for RUIA procedure.) General code letters have been developed for many of these situations. (Refer to RRAILS, GL-50 through GL-53). Consult with an attorney advisor if assistance is necessary with any legal aspect of your reply.

A support authority often inquires about an annuitant's benefits in order to determine if a garnishment order should be issued or if an existing order should be modified. Most of these inquiries are answered with code letter GL-53. Inquiries regarding how annuities



are garnished or where the forms should be sent, may also be answered using code letter GL-53.

### **5.15.85 Garnishment is Being Withheld from SS Benefit**

Garnishments should be withheld entirely from the railroad (retirement/survivor) portion of a combined RR/SS payment whenever possible. If the RR annuity is not large enough, the garnishment is applied entirely to the social security portion. If neither benefit portion is large enough by itself, the garnishment is divided equally between the two benefits.

If any portion of the garnishment amount is being withheld from the social security benefit, enter a tickler call-up (reason code 15) to adjust the case manually prior to the COL. The call-up date should be October 15 to ensure you get the case on time. The annuitant's and third party's social security portion in these cases must be suspended prior to the SS COL run. If they are not in suspense when SSA does their run, it will increase the annuitant's or possibly the third party's SSA benefit to the full amount.

To initiate or adjust a garnishment reduction, complete SOLAR for the annuitant, as well as, the third party recipient. SOLAR instructions are not currently available for garnishment related payments. If you have any questions contact RAC.

### **5.15.90 Terminating Garnishments**

A garnishment is terminated the earlier of:

- The date on which the annuitant's annuity terminates
- The date specified by a court order
- The last day of the month before the month in which the recipient dies.

Terminate the garnishment payment with code 18 on FAST and restore the annuitant's full annuity rate effective with the month the actual garnishment payment was stopped. Assume the support authority will reimburse the annuitant any amount withheld in excess. However, if payments are returned by the third party recipient, pay the amount returned to the annuitant. If the support authority requests the annuitant's address to repay any excess amount withheld, do not give it to them. Advise the support authority to send the RRB a check payable to the annuitant which we will forward.

Garnishment payments released after the annuitant's entitlement ended are recovered by the RRB in accordance with current procedure for last-check overpayments. Refer to [RCM 6.6.135](#) and [6.6.171](#).

**Note:** If the case is being adjusted manually, complete a G-59 to the Bureau of Information Systems, Data Management Group (BIS-DMG) stating, "Garnishment reduction has terminated".

Garnishment recipients must be terminated whenever the beneficiary is terminated.

### 5.15.95 Overpayments

The amount subject to garnishment is based on the amount actually paid, thus, if the annuity is in suspense to recover an overpayment or for any other reason, the garnishment is not payable for that month. In an O/P situation, the full annuity rate before the garnishment is used to determine the number of months recovery would take.

RPS-B-2 handles all notices and recoveries for the annuitant or third party overpayments in accordance with [RCM 6.6.2](#).

### 5.15.100 Applicant is Pending Disability Rating

The RRB may receive an order while the applicant is pending a disability rating. RPS-B-2 will request the file from DPD and put in a folder notice stating if the applicant is rated disabled, the case must be dumped from mechanical processing and forwarded to RPS-B-2. Send the order to imaging for future reference. Release a letter of response describing the person is not entitled at this time.

If the applicant is awarded an annuity based on disability, the garnishment is generally applied retroactively to the latter of the annuity beginning date or the month the garnishment order was received.

### 5.15.105 RUIA is Withholding for Garnishment Payments

Verification is made by checking the UPC payment screens. If an annuity application has not been submitted, RUIA payments may need to be adjusted according to DPOM 800. If the defendant (retirement applicant) later becomes entitled to an annuity and the order is still in effect (see table below), garnishment payments must be withheld from the annuity effective with the latter of the date the order was received or the ABD less the amount RUIA paid.

<b>If action taken on a terminated RUIA garnishment is</b>	<b>THEN</b>
Within the last 3 months	Treat the order as if it is still in effect.
More than 3 months but less than 2 years ago	Contact the court to inquire if the order is valid.
More than 2 years ago	Treat the order as if it is not in effect.

**NOTE:** If the garnishment deduction is not completed timely in respect to the retirement/survivor/disability payments, the result is an underpayment to the support authority. Generally an additional amount will be withheld each month until the back payments have been paid. Secure a copy of the garnishment order from RUIA's file.

To acquire previous garnishment payment information from RUIA, send an email entitled 'RUIA Clearance-Garnishment' to SUBD. This allows you to give the employee proper credit for any garnishment amounts previously withheld. In contrast, the third party must be reduced for payments previously paid by RUIA.

### **5.15.110 Spouse Annuitant is in Current Pay Status**

If there is a spouse annuitant currently on the rolls, review the file to see if there is any indication of a divorce. **NOTE:** A garnishment order does not substantiate a divorce. Verify the existence of a divorce through the field office before suspending the current spouse's annuity.

### **5.15.115 O/M Development and Adjustments**

Since many garnishment orders are for child support, check to see if O/M development is appropriate when adjusting the case to apply the garnishment order.

If information in the file suggests the employee's current spouse may not be aware of the child, alert the field office accordingly.

O/M cases must be paid manually for both the employee and the third party recipient. Whenever you need to modify the employee's rate, a G-354.3 must accompany the G-357. Note however, updating PREH for tier rates may be done on ROC.

### **5.15.120 Taxes**

The annuitant is taxed on his total annuity. Therefore, the garnishment payee's payments are not subject to tax withholding.

### **5.15.125 SMIB Reductions**

#### **A. Garnishment Payments**

Garnishment payments are not an annuity and SMIB is not withheld from them. If SMIB was erroneously deducted from the garnishment payment, send the case to MPS, attention: Supv. Include the following: "Remove SMI deduction from legal process case". MPS will correct the record.

#### **B. Annuity Payments**

When completing a reinstatement and SMIB is involved, recover premiums from accrual due whenever possible. Complete MEDCOR to notify MOLI of the correct pay through date.

### **5.15.130 Issuing Payments**

Payments are processed by completing either ROC (see [RCM 16.4](#)), SURPASS (see Exhibit 13), PC Award (contact RAC for instructions) and SOLAR (contact RAC for instructions) or manual forms (see SPECIAL SITUATIONS section at the end of the G-357 instructions, [RCM 8.6](#)). KEYMASTER is used to dump cases that are pending on REQUEST when the garnishment order is determined to be valid.

Note: If paying a case manually and either initiating or terminating a garnishment action, you must notify the Bureau of Information Systems, Division of Statistical Services (BIS-DSS) via G-59r. When initiating a reduction, specify, "3200-LEG-PROC-COMPU-CD =" (one of the following: 1 = fixed; 2 = percentage; 3 = other.) If the reduction has ceased, complete a G-59r to BIS-DSS stating, "Garnishment reduction has terminated".

### **5.15.135 Award Notices**

Release an ALTA letter when adjusting the annuity. Be sure to exclude the appeal rights if the letter is for the sole purpose of applying a garnishment reduction. Since the garnishment amount is not subject to appeal, include code paragraph 1625. Award notices are never sent to the third party.

## **Exhibits**

### **Exhibit 1 - GL-50 Notification of Compliance to the Garnishment Order**

\*(ADDRESS OF COURT)

In reply refer to:  
RRB No.

This is the response of the Railroad Retirement Board (RRB) to a garnishment or analogous legal process which was issued in the following case.

Petitioner:

Respondent:

Court:

Case Number:

Date legal process issued:

Date received by the Office of General Counsel of the RRB:

1. Benefit being paid to defendant:
2. Applicable exemption:
3. Action to be taken:
4. All pleadings and correspondence related to garnishment of benefits must be sent to the Office of General Counsel of the RRB. Service is not effective until the documents to be served are received in that office.
5. The RRB will comply with orders to enforce child support or alimony obligations only. The RRB will not comply with any order which is not directed to it or which is not for enforcement of a previously-existing child support or alimony obligation (except where state law provides otherwise).
6. The RRB has 30 days to respond to any garnishment or analogous legal process, regardless of any shorter period provided by state law.
7. The RRB may not be required to vary its normal disbursement cycles in order to comply with a garnishment.
8. Annuity amounts which may be specified in this response do not include deductions which may be made for Medicare premiums or amounts which may be withheld for taxes. Retirement annuities under the RRRA are payable on the first day of each month and are subject to cost-of-living increases and other adjustments in accord with the Railroad Retirement and Social Security Acts.
9. Federal law regarding the attachment of payments made by the Board may be found at 42 U.S.C. 659 et seq., 15 U.S.C. 1673(b)(2), 45 U.S.C. 231m and 352(e), and 20 CFR 350, et seq.
10. The Federal exemptions, cited above, exempt the following percentages of benefits from attachment: 35 percent; 45 percent if the defendant is supporting a spouse or child not the subject of the garnishment; 40 percent if the arrearage is less than 12 weeks; 50 percent if the defendant is supporting a spouse or child not the subject of the garnishment and the arrearage is less than 12 weeks; and any percentage, which is larger than that prescribed by Federal law, and which is required by applicable state law or by the attachment itself.
11. The RRB does not notarize its answers (20 CFR 350.5(f)).

Sincerely,

Director of Operations

cc:    \_\_\_ Defendant \_\_\_ (copy of legal process, etc., enclosed)  
       \_\_\_ Attorney for Plaintiff

## **Exhibit 2 - GL-51 Letter of Non-Compliance Order is not for Support**

>(ADDRESS OF COURT)

Re: >.....v.  
 >....., in  
 the >.....Court of >  
 County, >  
 Case # >

Dear Sir:

This is in response to an >..... issued in the above-entitled case on >....., and received in this office on >..... That >..... directs the Railroad Retirement Board (RRB) to withhold the non-exempt portion of benefits payable by the RRB to >.....

Garnishment of benefits paid by the RRB is authorized by section 459(a) of the Social Security Act 42 U.S.C. § 659(a), which subjects certain federal payments, "in like manner and to the same extent as if the United States \* \* \* were a private person, to legal process brought for the enforcement \* \* \* of \* \* \* legal obligations to provide child support or alimony payments".

Garnishment of RRB benefits for other than the above-stated purposes is prohibited by section 2(e) of the Railroad Unemployment Insurance Act 45 U.S.C. §352(e) and by section 14 of the Railroad Retirement Act 45 U.S.C. §231m . See also 20 CFR 350, et seq.

Accordingly, the RRB is unable to comply with the >.....

Sincerely,

Director of Operations

cc: >

**Exhibit 3 - GL-52 Letter of Non-Compliance Order is not Directed to RRB**

>(ADDRESS OF INQUIRER)

Dear Sir:

This is the response of the Railroad Retirement Board (RRB) to your recent inquiry.

Garnishment of benefits paid by the RRB is authorized by section 459(a) of the Social Security Act 42 U.S.C. § 659(a), which subjects certain federal payments, "in like manner and to the same extent as if the United States \* \* \* were a private person, to legal process brought for the enforcement \* \* \* of \* \* \* legal obligations to provide child support or alimony payments". Garnishment of RRB benefits for other than the above-stated purposes is prohibited by sections 14 of the Railroad Retirement Act (45 U.S.C. § 231m) and 2(e) of the Railroad Unemployment Insurance Act 45 U.S.C. § 352(e). See also Part 350 of the RRB's regulations (20 CFR 350, et seq.).

In accord with the foregoing provisions, the RRB will honor an order of garnishment or analogous legal process in satisfaction of an obligation for alimony or child support, subject to the exemptions contained in section 303(b)(2) of the Consumer Credit Protection Act 15 U.S.C. § 1673(b)(2), if it accords with the law of the state with jurisdiction in the matter. Those provisions exempt from garnishment 50% of each payment where the defendant is supporting his spouse or dependent child (other than the beneficiary of the support order), and 40% where he is not. These amounts are subject to a reduction by 5% in cases where there is an arrearage of over 12 weeks. If a greater exemption is provided by applicable state law or by the order, that greater exemption is applied.

"Legal process", as that term is used in section 459 of the Social Security Act (42 U.S.C. § 659), is defined by section 462(e) of that Act as:

"\* \* \* any writ, order, summons, or other similar process in the nature of garnishment, which

\* \* \* \* \*

"(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys which are otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments. "

Accordingly, any such order must be directed to the RRB; the RRB cannot make deductions from benefits under the authority of a support order or some other legal process directed to the primary obligor. Also, for the RRB to give effect to an order, that order must be "in the nature of a garnishment". Therefore, if a support or alimony order were to be or has been obtained, and thereafter circumstances, such as noncompliance with the order, arose or have arisen which would support a subsequent order directed to the RRB against benefits payable by it, the Board would honor that order, if it is in accord with the law of the state with jurisdiction in the matter; the RRB would also honor a revocable assignment in lieu of such an order.

Sincerely,

Director of Operations

#### **Exhibit 4 - GL-53 Letter Addressing General Inquiries**

>(ADDRESS OF INQUIRER)

In reply refer to:  
RRB No.

Dear Sir:

This is the response of the Railroad Retirement Board (RRB) to your recent inquiry. Please note those paragraphs which are checked.

Garnishment of benefits paid by the RRB is authorized by section 459(a) of the Social Security Act 42 U.S.C. § 659(a), which subjects certain federal payments, "in like manner and to the same extent as if the United States \* \* \* were a private person, to legal process brought for the enforcement \* \* \* of \* \* \* legal obligations to provide child support or alimony payments". Garnishment of RRB benefits for other than the above-stated purposes is prohibited by sections 14 of the Railroad Retirement Act (45 U.S.C. §



231m) and 2(e) of the Railroad Unemployment Insurance Act 45 U.S.C. § 352(e). See also Part 350 of the RRB's regulations (20 CFR 350, et seq.).

In accord with the foregoing provisions, the RRB will honor an order of garnishment or analogous legal process in satisfaction of an obligation for alimony or child support, subject to the exemptions contained in section 303(b)(2) of the Consumer Credit Protection Act 15 U.S.C. § 1673(b)(2), if it accords with the law of the state with jurisdiction in the matter. Those provisions exempt from garnishment 50% of each payment where the defendant is supporting his spouse or dependent child (other than the beneficiary of the support order), and 40% where he is not. These amounts are subject to a reduction by 5% in cases where there is an arrearage of over 12 weeks. If a greater exemption is provided by applicable state law or by the order, that greater exemption is applied.

"Legal process", as that term is used in section 459 of the Social Security Act (42 U.S.C. § 659), is defined by section 462(e) of that Act as:

"\* \* \* any writ, order, summons, or other similar process in the nature of garnishment, which

\* \* \* \* \*

"(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys which are otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments."

Accordingly, any such order must be directed to the RRB; the RRB cannot make deductions from benefits under the authority of a support order or some other legal process directed to the primary obligor. Also, for the RRB to give effect to an order, that order must be "in the nature of a garnishment". Therefore, if a support or alimony order were to be or has been obtained, and thereafter circumstances, such as noncompliance with the order, arose or have arisen which would support a subsequent order directed to the RRB against benefits payable by it, the Board would honor that order, if it is in accord with the law of the state with jurisdiction in the matter; the RRB would also honor a revocable assignment in lieu of such an order.

The RRB pays the following benefits to the defendant:

An annuity under the Railroad Retirement Act, payable on the first day of each month in the amount of >..... This amount is subject to cost-of-living increases and other adjustments in accord with the Railroad Retirement and Social Security Acts. Section 462(g) of the Social Security Act 42 U.S.C. § 662(g) mandates that amounts deducted from federal payments as health insurance premiums or for income tax purposes are to be excluded from computation of those payments for purposes relating to garnishment. Accordingly, any annuity amounts specified in this response do not include deductions which may be made for these purposes.

No benefits.

The RRB certifies and enrolls qualified railroad retirement beneficiaries for Medicare Part A (hospital insurance) and Medicare Part B (medical insurance). However, information regarding Medicare coverage cannot be released without written consent from the beneficiary. The RRB does not provide health insurance other than Medicare for its annuitants.

The RRB, being a Federal agency, is restricted with respect to the disclosure of information and records which pertain to an individual and which identify the individual to whom they pertain by section 12(d) of the Railroad Unemployment Insurance Act 45 U.S.C. § 362(d) , which is incorporated into the Railroad Retirement Act by section 7(b)(3) of that Act 45 U.S.C. § 231f(b)(3) .

Section 12(d) provides, in part, as follows:

"Information obtained by the Railroad Retirement Board (RRB) in connection with the administration of this Act shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: Provided, however, That (i) the RRB may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of the Act; (ii) the RRB may disclose such information in cases in which the RRB finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; and (iii) any claimant of benefits under this Act shall, upon his request be supplied with information from the RRB's records pertaining to his claim. \* \* \*

As can be seen from the above, section 12(d) prevents disclosure of any documents or information concerning an individual without that individual's express written authorization. However, in regard to the defendant's address, please note that section 453 of the Social Security Act (42 U.S.C. § 653) provides for the establishment of a Parent Locator Service to be administered by the Department of Health and Human Services. This service is authorized in appropriate cases to acquire information from any Federal agency concerning the whereabouts of absent parents. Should you wish to inquire further concerning the Parent Locator Service, you should contact the Parent Locator Service, Office of Child Support Enforcement, Department of Health and Human Services, Aerospace Building, 370 L'Enfant Promenade, SW, Washington, DC 20447 (202-401-9373).

In response to the inquiry as to where a wage attachment should be sent, please note that attachment of federal payments, in satisfaction of a support or alimony obligation, is authorized by section 459 of the Social Security Act (42 U.S.C. § 659), which provides, in part, that service shall be accomplished by certified or registered mail or by personal service upon the appropriate agent designated for receipt of such process pursuant to regulations issued by the agency involved. The RRB has designated the Deputy General Counsel as its agent to receive such process see section 350.3 of the RRB's regulations (20 CFR 350.3). Accordingly, any order should be sent to the Railroad Retirement Board, attention Bureau of Law, 844 Rush Street, Chicago, IL 60611.

Your correspondence and any documents which you enclosed are returned herewith.

Sincerely,

Director of Operations

### **Exhibit 5 - Sample of Prepared Letter**

Garnishment effective with ABD, credit should be given for garnishment paid by RUIA

(ADDRESS OF COURT)

In reply refer to:  
RRB No.

Dear (Name):

This letter is in reference to an income withholding order issued to the Railroad Retirement Board (RRB) in the following case.

Petitioner: Mary Doe

Respondent: Joe Doe

Court: District Court, Grand Forks County, North Dakota

Case Number: 12345

Date legal process issued: 07/01/96

Date received by the Office of the General Counsel of the RRB: 08/01/96

In compliance with this court order, the RRB's Disability, Sickness, Unemployment Benefits Division has been deducting and paying 50% of the benefits due Mr. Doe to you under the Railroad Unemployment Insurance Act.

We have now determined that Mr. Doe qualifies for an annuity under the Railroad Retirement Act beginning July 1, 1994. The annuity will replace the benefits he has been receiving and will be paid by the RRB's Office of Retirement and Survivor Programs. The amount of the annuity has not yet been determined, but we expect to determine a payment rate and begin payments shortly.

When Mr. Doe's annuity is awarded, we will continue to make deductions and payments to you in compliance with the court order. The deductions will be the lesser of \$450.00 per month or 50% of his monthly income. We will apply the withholding retroactive to the beginning date of his annuity, paying you any amount due that has not already been deducted and paid to you from the benefits paid by the Bureau of Unemployment and Sickness Insurance for the same period.

Sincerely,

Director of Operations

### **Exhibit 6 - Prepared Sample Letter**

Notification regarding lump-sum accrual payments

(ADDRESS OF COURT)

In reply refer to:  
RRB No.

Dear (Name):

This letter is in reference to the garnishment or analogous legal process issued to the Railroad Retirement Board (RRB) in the following case.

Petitioner: Mary Doe

Respondent: Joe Doe

Court: District Court, Grand Forks County, North Dakota

Case Number: 12345

Date legal process issued: 07/01/96

Date received by the Office of the General Counsel of the RRB: 08/01/96

We increased Mr. Doe's annuity rate earlier this month from a temporary rate of \$871.00 per month to a full current rate of \$1306.00 per month. We determined that Mr. Doe was due a retroactive increase totaling \$11,946.00 for the period October 1991 through April 1994.

In accordance with your order, we are to notify the court of any adjustment payment of \$500.00 or more and to withhold the payment for 30 days pending further instructions. In a previous contact, you advised us that applicable state law limits garnishment of such accrued sums to 50% of the accrued amount. Accordingly, we have paid Mr. Doe \$5,973.00 and are withholding the remaining \$5,973.00 pending further instructions from your agency. If we do not receive further instructions within 30 days of this notice, we will pay the amount withheld to Mr.Doe.

Sincerely,

Director of Operations

### **Exhibit 13 - Processing Third Party Cases Using SURPASS**

Since the third party cases create only a skeleton record in Rate History, few items need to be completed on the SURPASS screens to set up payment. The following screens need to be completed. Special completion instructions are also given. If the reduction is based on a percentage/ratio forward to RAC, attention Stewart Kusterski for further instructions.

**A. SURPASS Family Group Menu screen.**

1. Complete this screen in the normal way except for the "Ben Sym."
2. In "Ben Sym" enter the digit "3" followed by either "C", "W" or "P."
  - a. Use "C" for payments to all children, including disabled children and full time students.
  - b. Use "W" for payments to all widow(er) type recipients, including disabled, remarried and divorced.
  - c. Use "P" for payments to parents.
3. After "enter" is pressed, the "Ben Sym" will change to "3D."

**B. General Award Data screen.**

1. Enter "5" in "Award Type."
2. Enter the recipient's "Name and Address."

## C. Tier 1/Rate Deductions screen.

1. Enter either a "6" or "7" in "Select Deduction Type."
2. Enter a "Red Amount" and effective date.
  - a. If a rate changes during the accrual period, enter an amount for each period.
  - b. The latest rate "Thru" date should be left blank unless paying a one pay only award.
3. Enter a "Leg Proc Compu Cd" and, if applicable, a "Leg Proc Percent Amt."

## D. Monthly Annuity Rate screen.

1. Enter an "Effective Date" and, if applicable, an "End Date."
  - a. These dates must correspond to the dates entered on the Tier 1/Rate Deduction screen.
  - b. Press PF2 to enter the second date.
2. Enter the Tier amounts which make up the payment for each date break.
  - a. The Tier amounts must add up to the amounts entered on the Tier 1/Rate Deduction screen for each date break.
  - b. Press "enter" to total the amounts.

## E. Finishing the Award.

1. Press PF24 to compute the accrual amount.
2. Complete the award in the usual fashion.

**Exhibit 14 - RUIA Clearance-Garnishment**

TOPIC: <SS NO. RUIA CLEARANCE-GARNISHMENT

FROM:

TO: SUBD

\_\_\_\_\_ RRA CLAIM NO.

\_\_\_\_\_  
\_\_\_\_\_  
NAME

PLEASE FURNISH THE FOLLOWING INFORMATION.

PERIOD FOR WHICH SICKNESS BENEFITS WERE LAST PAID.

PERIOD FOR WHICH GARNISHMENT PAYMENTS WERE LAST PAID.

TOTAL AMOUNT OF GARNISHMENT PAYMENTS MADE FROM:

(EXAM ENTRY)

\$\_\_\_\_\_.

\*\*\*\*\*

TO: RPS-B2 ATTN:

COMPLETED BY: \_\_\_\_\_ EXT: \_\_\_\_\_ DATE: \_\_\_\_\_

