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"McCarthy, Thomas" <Thomas.McCarthy@rrb.gov> on 10/10/2003 08:26:46 AM

To: <210comments@fms.treas.gov>
cc: "Boehne, Kenneth" <Kenneth.Boehne@rrb.gov>, "Verplaetse, James" <James.Verplaetse@rrb.gov>, "Flynn, William" <William.Flynn@rrb.gov>
Subject: Comments on Proposed Rule - 31 CFR 210

Attached are comments on proposals to amend the above regulation.

Please direct any questions concerning these comments to the undersigned.

Tom McCarthy

Debt Recovery Manager

Bureau of Fiscal Operations

Railroad Retirement Board

(312) 751-4727



- section 210 comments.doc

Mandatory Use of R14 or R15 Return Reason Code - Section 210.10 (a)

We agree with this change. Requiring financial institutions to use R15 (Beneficiary or Account Holder Deceased) or R14 (Representative Payee Deceased) return reason codes when returning Federal benefit payments received after the institution learns of the death of the recipient will permit the issuing Federal agency to terminate, rather than suspend further payments to the recipient. In the past, financial institutions would often use an R02 (Account Closed) or other non-death return reason code which could result in an additional loss of funds. The proposed changes to section 210.10(a), however, do not clearly define the use of the two codes. It is our experience that financial institutions often interchange these codes. The financial institution should be cautioned to use care when selecting the appropriate code. Code R14 should be used only to return payments when the representative payee has died or become legally incapacitated. Code R15 should be used when the beneficiary is deceased. When we receive a returned payment with an R14 return reason code, the benefit payment is suspended until we secure documentation for a new representative payee. If the financial institution incorrectly uses an R14 reason code to return a payment when the beneficiary is deceased in a first notice of death situation, our ability to reclaim additional not-due payments, may be jeopardized because of the 120-day rule.

We recommend adding the following statement to section 210.10 (a):

The return reason code R14 shall be used to return benefit payments when the beneficiary's representative payee has died or become legally incapacitated. The return reason code R15 shall be used to return benefit payments when the beneficiary has died.

This distinction should also be published in the Treasury Green Book.

Post-death Payments to which Recipient is Entitled Section - 210.10 (c)(1) & (2)

We do not agree with the proposed change. The change considers a proper payment to be one which the beneficiary is entitled to receive. It does not address whether the receiving party is legally entitled to the payment. In the case of joint financial accounts, persons other than those legally entitled to the benefit payment may receive the funds. The joint account holder of the account is not necessarily an heir or the sole heir of the deceased beneficiary's estate. Monies, due and payable to the deceased beneficiary, deposited in his account after his death, could be withdrawn and used by the joint account holder. In cases in which the joint account holder is the beneficiary's surviving spouse, we do not reclaim payments issued after the beneficiary's death, due and payable for periods prior to the beneficiary's death. However, if the joint account holder is someone other than the beneficiary's surviving spouse, we will reclaim the payment and reissue to the beneficiary's estate.

Misdirected Federal Payments - Section 210.8 (d)

We concur with this change. This change would require financial institutions to make Federal agencies aware of payments that have been misdirected in order that the agency may take corrective action. Consideration should be given to strengthening this proposal by requiring the financial institution to return the misdirected payment to the issuing agency rather than deposit it in the account the financial institution determines to be proper.

Notification to Account Owners - Section 210.13

We do not object to this change, but it should be noted that delays in notifying the account holders could cause errors in the reclamation process. Immediate notification of reclamation to the account holder is a key to our system of checks and balances. Immediate Notification allows the account holder to review the intended action and correct any errors prior to the action.