§ 345.119 Refunds.

(a) In general. If more than the correct amount of the employer’s contribution is paid with respect to any compensation and the overpayment may not be adjusted in accordance with §345.118 of this part, the amount of the overpayment shall be refunded in accordance with this section.

(b) When permitted. A claim for refund may be made only when the overpayment cannot be adjusted in accordance with the procedure set forth in §345.118.

(c) Form of claim. A claim for refund shall be directed to the Chief Financial Officer and shall set forth all grounds in detail and all facts alleged in support of the claim, including the amount and date of each payment to the Board of the contribution to the Board, and the period covered by the contribution report on which such contribution was reported.

(d) Claim by fiduciary. If an executor, administrator, guardian, trustee, or receiver files a claim for refund, evidence to establish the legal authority of the fiduciary shall be annexed to the claim filed by such fiduciary under this section.

(e) Time limit. No refund shall be allowed after the expiration of three years from the time the contribution report was required to be filed or two years from the time the contribution was paid, whichever of such periods expires the later, or if no contribution report was filed, two years from the time the contribution was paid.

(f) Interest. Interest shall be payable on any contribution refunded at the overpayment rate provided for in section 6621 of the Internal Revenue Code of 1986 from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days.

(g) Refunds reduced by underpayments. Any overpayment claimed or a refund under this section shall be reduced by the amount of any amount of any contributions previously assessed under §345.120 of this part, which has not already been collected.

§ 345.120 Assessment and collection of contributions or underpayments of contributions.

(a) If any employer’s contribution is not paid to the Board when due or is not paid in full when due, the Board may, as the circumstances warrant, assess the contribution or the deficiency and any interest or penalty applicable under this part (whether or not the deficiency is adjustable as an underpayment under §345.118 of this part).

(b) The amount of any such assessment will be collected in accordance with the applicable provisions of law. If any employer liable to pay any contribution neglects or refuses to pay the same within ten days after notice and demand, the Board may collect such contribution with such interest and
other additional amounts as are re-
quired by law, by levy, by administra-
tive offset as authorized by 31 U.S.C.
3716 and in accordance with the proce-
dures set forth in part 367 of this chap-
ter, 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 pe-
riod, including extension thereof, for
collection agreed upon by the Chief Fi-
nancial 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 re-
spect 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 ef-
flecting an immediate reporting and
collection of an employer’s contribu-
tion, the Board will assess the con-
tribution whether or not the time oth-
erwise 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 imme-
diately 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 as-
essment 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 sure-
ties as the Board may deem necessary.

Such bond shall be conditioned upon
the payment of the amount (together
with interest and any penalties there-
on) 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 em-
ployer may deposit with the Board
bonds or notes fully guaranteed by the
United States as to principal and inter-
est, 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 de-
fault to collect or sell such bonds or
notes so deposited.

§ 345.122 Interest.

(a) Rate. If the employer’s contribu-
tion 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 contribu-
tions from the due date thereof until
the date paid will be assessed after pay-
ment 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 Fi-
nancial Officer may waive, in whole or
in part, any interest imposed by para-
graph (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 in-
dividual with the sole authority to exe-
cute the return and payment; fire, cas-
ualty, or natural disaster at the place
where the railroad unemployment in-
surance 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 dispropor-
tionate to the period of the delay and
the amount of contributions paid; and

(3) The employer’s past record for
timely compliance with railroad unem-
ployment insurance reporting and pay-
ment requirements warrants such ac-
tion considering such factors as the
number and extent of delays associated
with late reports, payments, and un-
derpayments.

§ 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