

UNITED STATES GOVERNMENT

RAILROAD RETIREMENT BOARD

MEMORANDUM

JUN 10 1991

L-91-81

TO: Privacy Act Officer
Through: Director of Information Resources Management
Through: Director of Legal and Administrative Services

FROM: Deputy General Counsel

Deborah A. Zimmerman

SUBJECT: Disclosure of RRB Debtor Information

This is in response to your memorandum of March 19, 1991, wherein you asked whether under section 12(d) of the RUIA RRB debtor information may be disclosed to the Department of Defense, the Office of Personnel Management, and the Postal Service. According to your memorandum and the attached March 7, 1991, memorandum from the Chief Financial Officer, a new routine use of records maintained in system of records RRB-42: Uncollectible benefit overpayment accounts, has been proposed, to wit,

"Debtors' names, Social Security Numbers, and amounts of debts owed may be disclosed to the Department of Defense, the Office of Personnel Management, and the Postal Service for the purpose of determining how many debtors are current or former Federal employees or members of the armed forces whose debts may be collectible by salary or retirement benefit offset."

The purpose of this routine use, as described by the Chief Financial Officer, is

"to do a test match with the Defense Manpower Data Center (DMDC) of our delinquent debtor records with the DMDC's records of Federal civilian and military personnel for the purpose of determining the potential for collecting our delinquent accounts by salary offset. DMDC will provide the RRB with a report showing the number of our debtors who are Federal or military personnel, categorized by amounts of debt (the number of debtors with debts \$50.00-\$99.99, \$100.00-\$199.99, etc.). The RRB will not receive any information identifying these individuals. The DMDC will return our file upon completion of the test and will make no other use of it."

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It is noted that this action has been recommended by OMB in its management report.

You have asked whether this type of disclosure would fall within the definition of a permitted disclosure described in section 12(d) of the Railroad Unemployment Insurance Act (RUIA), which states:

"(i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this Act."

As you have mentioned, in Legal Opinion L-86-93 I addressed the meaning of the phrase "functions related to the administration of this Act." In that opinion I stated in part that "the determination of the type of agency which may be considered to be engaged in functions related to the administration of the RRA or the RUIA cannot be made with reference to only section 12(d), but must be made in light of other relevant sections of the Acts and with full consideration of the type of information to be released and the purpose for which the information will be used."

While it is clear that agencies such as the Department of Defense, the Office of Personnel Management and the Postal Service do not engage in functions related to the administration of the RRA or the RUIA, the particular program these agencies have currently entered into with the DMDC is a program related to the administration of the Acts, i.e., to recover debts owed to the Board.

It should be noted that the Board has recently proposed to add a new Part 367 to its regulations to provide guidelines for the administration of the Board's authority under 31 U.S.C. 3716 for recovering debts owed to the Board by offsetting the debt against any payments being made to the debtor (or moneys being held for the debtor) by other government agencies. Section 10 of the Debt Collection Act of 1982 (P.L. 97-365 (31 U.S.C. 3716)) permits an agency to recover debts due it from payments being made by other United States government agencies. However, before agencies may use this recovery procedure, a regulation setting forth this authority, based on the best interests of the United States, the likelihood of collecting the claim by administrative offset, and for collecting the debt after the six year period for bringing a civil action has expired, must be adopted. As you know, section 10(a) of the Railroad Retirement Act and section 2(d) of the Railroad Unemployment Insurance Act provide that debts arising under those statutes are to be recovered unless recovery of the

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debts is waived. The program of administrative offset authorized by this proposed regulation would supplement the already existing programs of administrative offset from tax refunds (see Part 366) and from other benefits paid by the Board (see 20 CFR 255.8 and 350.6).

It is my opinion that in view of this proposed regulation and the description of the planned match with DMDC, section 12(d) of the RUIA would permit the disclosure of RRB debtor information to the three agencies in question.



Steven A. Bartholow



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