

EMPLOYER STATUS DETERMINATION
Savage Bingham & Garfield Railroad Company

This is the determination of the Railroad Retirement Board concerning the status of Savage Bingham & Garfield Railroad Company (SBGR) as an employer under the Railroad Retirement Act (45 U.S.C. § 231, et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S. C. § 351 et seq.) (RUIA). SBGR has not heretofore been ruled to be an employer under the RRA and RUIA.

Based on information provided by Mr. Richard F. Riley, Jr., Esq., attorney for SBGR, SBGR operates freight service on three branch lines on 21.2 miles of trackage in the Salt Lake City, Utah area terminating at Midvale, Utah. SBGR connects with the Union Pacific Railroad Company. SBGR employees were first compensated beginning August 6, 2007 and actual operations began on October 1, 2007. Surface Transportation Board (STB) authority for SBGR operations is set forth at STB Finance Docket No. 35008, decided July 20, 2007.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. 231(a)(1)), insofar as relevant here, defines a covered employer as:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49 [45 U.S.C. § 231(a)(1)(i)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. § 351(a) and (b)) contain substantially the same definition as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. 3231).

Based on the information summarized above, it is determined that Savage Bingham & Garfield Railroad Company became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on August 6, 2007, the date from which employees were first compensated. Cf. Rev. Rul. 82-100, wherein the Internal Revenue Service held that a company becomes an employer subject to RRTA taxes on the date the company first hires employees to perform functions directly related to its carrier operations. 1982-1 C.B. 155.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board