B.C.D. 01-1

Employer Status Determination
Carload Express, Inc.

JAN 05 2001

This is the decision of the Railroad Retirement Board regarding the status of Carload Express, Inc. (CEI) 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).

Information regarding the activities of CEI was provided by Mr. Russell A. Peterson, President of CEI. Effective January 1, 2000, CEI began providing transportation and logistics management services to several rail carriers. CEI manages the Allegheny Valley Railroad Company (BA 2266), Camp Chase Industrial Railroad Company (BA 3387), and Southwest Pennsylvania Railroad Company (BA 2364).

In addition, prior to January 1, 2000, Carload Express was named Trimax Holdings, Inc. and was a New Hampshire corporation that provided financial services, held investments in securities and real estate and leased equipment. Effective January 1, 2000, Carload Express, a Pennsylvania corporation, became common paymaster and manager of the railroads listed above and the officers of the railroads became employees of Carload Express. Prior to January 1, 2000, the railroads listed above employed their own railroad officers. Mr. Peterson owns 100% of CEI, 50% of Allegheny Valley, 100% of Camp Chase, and 4% of Southwest Pennsylvania. CEI owns 96% of Southwest Pennsylvania and 50% of Allegheny Valley. Mr. Peterson is the President of CEI and all 3 railroads. He also serves as Treasurer and Secretary of CEI and Allegheny Valley.

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;
>
> (ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of

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> equipment or facilities) in connection with the transportation of passengers or property by railroad * * * [45 U.S.C. §231(a)(1)(i) and (ii)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act [45 U.S.C. §§351(a) and (b)] contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (RRTA) (26 U.S.C. §3231).

CEI is clearly not a carrier by rail. However, through the common ownership of Mr. Peterson, it is clearly under common ownership and control with the rail carriers listed above. Its coverage under the Acts, therefore turns on whether it provides a service in connection with rail transportation. CEI provides management and logistics services to its affiliated railroads. This is a service in connection with the transportation of passengers or freight by rail. See Adams v. Railroad Retirement Board, 214 F.2d 534 ((9th Cir. 1954), where the Court held that the provision of accounting services can be considered to be a service in connection with transportation by rail. Since CEI is providing management and logistics services and acts as paymaster for its rail affiliates, the Board finds that CEI provides service in connection with rail transportation.

The Board finds that Carload Express, Inc. became an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 1, 2000, when it first began providing services to its affiliated railroads.

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