B.C.D. 03-72

EMPLOYER STATUS DETERMINATION SEP 18 2003
Appalachian Railcar Services, Inc.

This is the decision of the Railroad Retirement Board regarding the continued status of Appalachian Railcar Services, Inc. (ARS) 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).

ARS operated a shortline railroad under a contract with Big Eagle Rail, LLC[1], and performed rail car repairs. It was held to be an employer under the Acts effective August 20, 2000, (B.A. Number 9410) to the extent that it operated the shortline railroad for Big Eagle Rail. The operation of the shortline railroad was to be taken over by Short Line Services, Inc., an affiliate of ARS[2], under a contract entered into April 1, 2003, between Big Eagle and Short Line Services. The operation by Short Line Services was to begin as of the date of the Board's decision holding Short Line Services to be an employer, which was June 25, 2003.

Section 202.11 of the Board's regulations provides that:

> The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Through the termination of its operation of the short line railroad, ARS has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that ARS ceased to be an employer under the RRA and RUIA effective with the close of business on June 25, 2003. Cf. Rev Ruling 82-99, 1982-2 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to

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[1] Big Eagle Rail was held to be an employer under the RRA and the RUIA as of August 20, 2000 (B.C.D. No. 01-85, December 4, 2001).
[2] On June 25, 2003, the Board held Short Line Services to be an employer as of that date (B.C.D. No. 03-57, B.A. No. 2415).

Appalachian Railcar Services, Inc.

be an employer subject to taxes under the Railroad Retirement Tax Act when the railroad's employees stop performing services in connection with the railroad's carrier activities.

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