EMPLOYER STATUS DETERMINATION
Cumbres & Toltec Scenic Railroad Corporation

SEP 1 3 1999

This is the decision of the Railroad Retirement Board concerning the status of the Cumbres & Toltec Scenic Railroad Corporation 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) and the continuing status of BA Number 2747.

BA Number 2747 was assigned to the "Cumbres and Toltec Scenic Railroad" as a result of the coverage ruling in Legal Opinion L-71-182 issued June 10, 1971. Information obtained in connection with a recent coverage ruling, B.C.D. No. 99-18 issued May 24, 1999, indicated that as of approximately March 1, 1982, no operations were conducted by the original entity which had been assigned BA Number 2747. The employer status of BA Number 2747 is therefore terminated effective March 1, 1982.

In B.C.D. No. 99-18, the Board held that the St. Louis Car Company d/b/a Cumbres & Toltec Scenic Railroad ("C&T") from March 1, 1982 through the end of 1996, was not a covered rail carrier employer under the RRA and the RUIA. The only railroad operation conducted by C&T was a tourist excursion railroad running between Chama, New Mexico and Antonito, Colorado. The service operated seasonally for about four and a half months a year. C&T did not "through-ticket" any passengers or freight onto any other rail carrier and was not a part of a national railway system.

Beginning December 1, 1996, the Cumbres & Toltec Scenic Railroad Corporation (the "Corporation") conducted scenic tourist railroad excursions over the same 65 miles of track. The tourist/excursion railroad operation conducted by the Corporation is identical to the service previously provided by the St. Louis Car Company d/b/a Cumbres & Toltec Scenic Railroad. We therefore find that the Corporation is not an employer under the RRA and the RUIA.

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