Employer Status Determination
Washington Transportation Group, LLC

OCT 21 1999

This is the decision of the Railroad Retirement Board regarding the status of Washington Transportation Group, LLC (WTG) as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts. The status of this company has not previously been considered.

The evidence is that WTC was incorporated as a privately held corporation wholly owned by Dennis R. Washington, and began operations January 1, 1999. Mr. Washington also owns a controlling interest[1] in two rail carriers: Montana Rail Link, Inc. (BA No. 3658) and I&M Rail Link, LLC (BA No. 5623). Montana Rail Link operates approximately 544 miles of rail line in Montana, and has been determined to be a rail carrier employer under the Acts effective July 1, 1987. I&M Rail Link operates approximately 1,300 miles of rail line in Illinois, Iowa, Kansas, Minnesota, Missouri, and Wisconsin, and has also been determined to be a rail carrier employer under the Acts effective January 30, 1997. WTG was established to provide management and advisory services to the railroads owned by Dennis Washington, including budgeting, financial services (e.g. banking and capital markets), insurance, and marketing.

Section 1(a)(1) of the Railroad Retirement Act (RRA) (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, United States Code;
>
> (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 equipment or facilities) in connection with the transportation of passengers or property by railroad * * *.

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[1] Specifically, information provided by Thomas J. Walsh, Senior Vice President and Chief Financial Officer of WTG, states that Mr. Washington owns 98.75% of Montana Rail Link and two-thirds of I & M Rail Link.

Mr. Washington also owns a controlling interest in Southern Railway of British Columbia, which apparently operates a short line railway in the Vancouver vicinity. The status of Southern as an employer under the Acts has not been considered.

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Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (RUIA), 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).

WTG is clearly not a carrier by rail. However, the evidence shows that Dennis R. Washington owns 100% of WTG and a majority of 2 rail carrier employers, Montana Rail Link and I&M Rail Link. The Board therefore finds that WTG is under common control with Montana Rail Link and I&M Rail Link within the definition of an affiliate employer under the Acts. The Board finds further that since WTG was established to provide management and advisory services to its rail carrier affiliates, WTG provides service in connection with railroad transportation within the meaning of the Acts.

Accordingly, it is the determination of the Board that WTG became a covered rail carrier affiliate employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 1, 1999, the date it began operations.

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