B.C.D. 05-40

EMPLOYER STATUS DETERMINATION AUG 0 9 2005

First Coast Railroad

This is the determination of the Railroad Retirement Board concerning the employer status of First Coast Railroad (FCRD) 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 about FCRD was provided by Bridget Shepard, Human Resources Manager for Genesee & Wyoming Inc.. FCRD is a wholly owned subsidiary of Genesee & Wyoming, Inc., B.A. No. 2639. FCRD first compensated employees on March 31, 2005 and began freight operations on April 8, 2005 on approximately 31.83 miles of rail line which it leases from CSX Transportation Inc., B.A. No. 1524. The rail line consists of the Kingsland subdivision between Yulee, FL, milepost S 611.95, and the end of the track at Seals, GA, milepost S 593.4, and the Fernandina Subdivision between Yulee, milepost SMA 35.1, and the end of the track at Fernandina, FL, milepost SMA 48.38. FCRD connects with CSX and St. Marys Railroad. Authority for FCRD's lease and railroad operation was obtained in Surface Transportation Board Finance Docket No. 34670, decided April 18, 2005.

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 First Coast Railroad became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on March 31, 2005, the date on 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.

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