B.C.D. 05-43

SEP 07 2005

EMPLOYER STATUS DETERMINATION
Southern Alabama Railroad, Inc.

This is the decision of the Railroad Retirement Board regarding the continued status of the Southern Alabama Railroad, Inc., 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).

Southern Alabama was held to be an employer under the Acts effective November 1, 1988, (B.A. Number 5520). In response to questions about its continued status as an employer, Mr. G. R. Abernathy, President of Southern Alabama Railroad, Inc., provided the following information. Southern Alabama Railroad, Inc. ceased operations on October 25, 2001. Its rail assets were sold to Conecuh Valley Railroad, Co., Inc., a covered employer under the Acts (B.A. Number 5585). Southern Alabama last compensated employees on December 31, 2001.

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 sale of its rail and other assets and its cessation of operations, Southern Alabama has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that Southern Alabama ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on December 31, 2001. Cf. Rev Ruling 82-99, 1982-2 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to 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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