B.C.D. 05-47

EMPLOYER STATUS DETERMINATION
Louisiana Southern Railroad, Inc.

OCT 2 8 2005

This is the determination of the Railroad Retirement Board concerning the status of Louisiana Southern Railroad, Inc., as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information regarding Louisiana Southern was provided by Craig R. Richey of Watco Companies, Inc., the parent company of Watco Transportation Services, Inc., which is the parent of Louisiana Southern. According to Mr. Richey, Louisiana Southern began doing business September 25, 2005. Richard B. Webb is the chief executive officer of Louisiana Southern, which currently has 32 employees. The compensation of the employees began September 12, 2005.

In Surface Transportation Board Finance Docket No. 34751, Louisiana Southern filed a notice of exemption to lease and operate approximately 165.8 miles of rail lines owned by the Kansas City Southern Railroad. Louisiana Southern is performing inbound and outbound interchange, blocking, and switching. It interchanges with the Kansas City Southern. All of its business is with the Kansas City Southern.

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, 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 * * *.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that Louisiana Southern is a carrier operating in interstate commerce. Accordingly, it is determined that Louisiana Southern is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of September 12, 2005, the date for which its employees were first compensated. See Rev. Rul. 82-100 (1982-1 C.B. 155), wherein the Internal Revenue Service held that a company became an employer under the Railroad Retirement Tax Act on the date it hired employees to perform functions directly related to its carrier operations.

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