

February 3, 1998
L-98-4

TO : B. V. Ferguson
Director of Programs

FROM : Catherine C. Cook
General Counsel

SUBJECT : Work Deductions - Royalties

We received an inquiry from the Kansas City District Office concerning the effect of royalties from inventions on receipt of an annuity. Our advice is set out below.

Section 2(f)(1) of the Railroad Retirement Act (45 U.S.C. § 231a(f)(1) provides that a portion of the railroad retirement annuity shall be subject to deductions on account of work pursuant to section 203 of the Social Security Act (42 U.S.C. § 403). This section in turn requires a reduction in benefits if an individual's wages and earnings from self-employment in a given year exceed an exempt amount. The issue presented is whether royalties received by a individual from an invention are earnings for work deduction purposes.

Revenue Ruling 68-499 (CB 1968-2, 421) held that in the case of a company which pays royalties to individuals for licenses to manufacture certain articles on which the individuals hold patents, those payments are not for services performed. This is consistent with IRS Letter Ruling 9035065, June 6, 1990, which held that royalties received by a person from a firm that purchased his invention were not payments for services performed, and with the Field Operations Manual (section 1110.15, paragraph 21).

The inquiry which prompted this opinion concerns royalties paid for license of an invention which is not patented. It does not appear, however, that there are any reasons to distinguish that case from those where there are patent rights. Accordingly, the royalties at issue should not be considered as earnings for work deduction purposes.