

This is the determination of the Railroad Retirement Board concerning the status of Golden Triangle Railroad, LLC (GTRA) 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.). The status of GTRA under the Acts has not previously been considered.

Information about GTRA was provided by Mr. Wayne Pratt, Payroll Tax Accountant for Weyerhaeuser NR Company, and Mr. Louis E. Gitomer, Attorney for Golden Triangle Railroad, LLC. In Surface Transportation Board Finance Docket No. FD 35428, GTRA filed a verified notice of exemption to acquire and operate approximately 8.6 miles of rail line from Golden Triangle Railroad Company, an employer under the Acts. This transaction was related to a transaction in which Patriot Rail, LLC (a non-covered entity) and its subsidiaries entered into an asset purchase agreement on July 21, 2010, to acquire from Weyerhaeuser NR Company certain rail assets and the rail assets of five of its subsidiaries.

According to the letter dated February 3, 2011, from Attorney Gitomer, GTRA is owned by Tennessee Southern Railroad Company (B.A. No. 5509) and Patriot Rail, LLC and its subsidiaries Patriot Rail Holdings, LLC (a non-covered entity) and Patriot Rail Corp. (B.A. No. 5406). GTRA began operations on December 31, 2010, and has nine employees¹ who were compensated from that date. GTRA will interchange with the Alabama & Gulf Coast Railway, LLC, BNSF Railway Company, Columbus and Greenville Railway Company, Kansas City Southern Railway Company, and Norfolk Southern Railway Company. GTRA will provide freight service over its lines to all shippers. No passenger service is proposed.

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).

¹ These employees were all formerly employees of the Golden Triangle Railroad Company.

The evidence of record establishes that GTRA is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that Golden Triangle Railroad, LLC 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 December 31, 2010, the date as of which it began operations and first compensated employees.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board