

**EMPLOYER STATUS DETERMINATION
GETTYSBURG SCENIC RAIL TOURS, INC.**

This is the determination of the Railroad Retirement Board concerning the status of Gettysburg Scenic Rail Tours, Inc. (GSRT) 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).

In November 1996, GSRT assumed the rights of Gettysburg Passenger Service, Inc., a noncovered excursion tourist railroad which had operated as such since the late 1970's. GSRT began operating its seasonal excursion tourist railroad in December 1996 on track which it leases and which covers a distance of 23.4 miles, all within the Commonwealth of Pennsylvania. GSRT provides no freight service and does not interchange with other railroads. GSRT employs 10 seasonal part-time employees.

Section 1(a)(i) of the RRA provides in pertinent part that the term "employer" shall include:

- (i) Any carrier by railroad subject to the jurisdiction of the Surface Transportation Board (STB) under Part A of subtitle IV of Title 49:

Section 1 of the RUIA contains the same definition.

Chapter 105 of Part A of subtitle IV of Title 49 is the portion of the Interstate Commerce Act which sets forth the provisions governing the jurisdiction of the Surface Transportation Board (STB) over rail transportation. It provides, among other things, that the STB's jurisdiction applies only to rail transportation in the United States between a place in a state and a place in the same or another state as part of the interstate rail network. (49 U.S.C. § 10501(a)(2)(A)).

GSRT's operation of a tourist railroad does not constitute an operation in interstate commerce, since it conducts only excursions of passengers within one state and does not connect with the interstate rail network. Accordingly, the Board holds that GSRT is not an employer under the RRA or RUIA.

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever