



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

March 24, 2004

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MEMORANDUM FOR DIRECTOR, INTERNAL REVENUE SERVICE CENTER
Cincinnati, OH
Attn: Technical Unit

FROM: Office of Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)
CC:TEGE:EOEG:ET1 – GENIN-101680-04

SUBJECT: Railroad Retirement Act Status – Decision on Reconsideration

In accordance with the coordination procedure established between the Service and the Railroad Retirement Board (RRB), the RRB has provided us with its opinion (a reconsideration of its opinion) that the following business is not an employer under the Railroad Retirement Act and the Railroad Unemployment Tax Act:

The RRB reconsidered its earlier opinion due to conflicts between the language of an "Administrative Services Agreement," contentions, and the related RRB audit record regarding whether actually operated a rail carrier (

). Although we have reviewed the opinion of RRB, given this highly factual conflict we are unable to determine whether is an employer under the RRTA based on the information submitted to us by the RRB. The RRB opinion also states which of two related entities is the employer of various employees. This determination is also highly fact specific and one that we cannot determine based on the summary information we have reviewed.

Please call me or at if you have any questions.

Joseph W. Spires

cc: