B.C.D. 02-20

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EMPLOYER STATUS DETERMINATION
Gulf & Ohio Railways

This is the decision of the Railroad Retirement Board regarding the continued status of the Gulf & Ohio Railways, 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).

Gulf & Ohio was held to be an employer under the Acts effective December 31, 1985, (B.A. Number 9521[1]). Gulf & Ohio determined that continued operations were not economically viable and ceased operations on July 1, 2001. Its track assets were sold to Coahoma County, Mississippi, and its locomotives were sold to two railroads. See Surface Transportation Board decision dated June 12, 2001 (STB Finance Docket No. 580X). Gulf & Ohio last compensated employees on July 31, 2001.

Section 202.11 of the Board's regulations provides that:

> The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Through the sale of its rail and other assets and its cessation of operations, Gulf & Ohio has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that Gulf & Ohio ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on July 31, 2001. Cf. Rev Ruling 82-99, 1982-1 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to be an employer subject to taxes under the Railroad Retirement Tax Act when the railroad's employees stop performing services in connection with the railroad's carrier activities.

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[1] Apparently Gulf & Ohio reported compensation under B.A. No. 2575, Gulf & Ohio Railways Co., Inc., d/b/a Mississippi Delta Railroad.