Employer Status Determination
Railinc Corporation (RLC)

MAR 2 9 1999

This is the determination of the Railroad Retirement Board concerning the status of Railinc Corporation (RLC) 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).

Information regarding RLC was provided by Ms. Cassandra Henry, Manager of Payroll for RLC. According to Ms. Henry, RLC is owned by the Association of American Railroads (AAR) and its Chief Executive Officer is Mr. James W. Gardner. RLC was incorporated on November 18, 1998, and, effective January 1, 1999, RLC began conducting "business in the inspection of safety and audit of railcar movement." RLC is a privately held corporation, the sole shareholder of which is the AAR, an employer under the Acts since October 12, 1934. RLC provides the same services for the railroad industry as those which were provided by the AAR prior to January 1, 1999. RLC has 100 employees who were first compensated effective January 1, 1999.

Section 1(a)(1)(iv) of the RRA (45 U.S.C. § 231(a)(i)(iv)) defines "employer" as follows:

> any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency and any other association, bureau, agency, or organization which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation; * * *

Section 1 of the RUIA contains essentially the same definition.

RLC performs the same services now that were provided prior to January 1, 1999, by the AAR. The AAR is an association of a large number of covered rail carrier employers and is itself a railroad association within the definition of employer contained in section 1(a)(1)(iv) of the RRA. Since RLC is controlled by the AAR, and the AAR is controlled by two or more employers, RLC is, de facto, controlled by two or more employers in accordance with the definition of employer in section 1(a)(1)(iv) of the RRA. This finding is consistent with the Board's prior treatment of two earlier subsidiaries of the AAR. See B.C.D. 98-14, which held that Transportation Technology Center is an employer under section 1(a)(1)(iv) and Legal Opinion L-83-184, which held that a prior Railinc

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Corporation was an employer under that same section. [The earlier Railinc Corporation was liquidated on December 31, 1993.]

Based on information summarized above, it is determined that Railinc Corporation became a railroad employer under the RRA and RUIA effective January 1, 1999, the date on which it began operations and first compensated employees.

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