

Director of Data Processing and Accounts

JAN 22 1980

L80-17

General Counsel

Sickness benefits - Missouri-Kansas-Texas
Railroad Company

This is in response to your memorandum of April 11, 1979, in which you request an opinion as to whether Rule 64 of the Agreement between the above-referenced railroad and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employee's is a "plan" under section 1(h)(6)(vi) of the Railroad Retirement Act of 1974 (45 U.S.C. § 231(h)(6)(vi)).

An examination of Rule 64 leads me to conclude that, except with regard to the provision for funeral leave, Rule 64 meets the criteria set forth in General Counsel's opinion L-78-97.1.

In light of the above I am of the opinion that Rule 64 qualifies as a "plan" within the meaning of the above-cited section of the Railroad Retirement Act, and, therefore, benefits paid pursuant to it, when paid for days of bona fide sickness, and not for funeral leave, are excludable from compensation under that Act.

Dale G. Zimmerman

TWS:bj