

Digest

APR 18 1985

L-85-43

Director of Compensation and Certification

Deputy General Counsel

Heartland Rail Corporation

This is in response to a Form G-215 memorandum of March 25, 1985, from Mr. R. P. Elling of your bureau requesting my opinion as to the employer status of Heartland Rail Corporation. That company has not previously been held to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

In a decision dated September 28, 1984, the Interstate Commerce Commission exempted Heartland from regulation under the Interstate Commerce Act (Finance Docket Number 30554). The following is based upon information which either is contained in that decision, has been supplied by counsel for the President of Heartland, or is contained in or referred to in Legal Opinion L-85-4, which held Iowa Interstate Railroad, Inc., to be an employer under the Acts effective October 13, 1984.

Heartland, which was incorporated as an Iowa corporation on May 1, 1984, purchased a rail line and leased it to Iowa Interstate Railroad, Ltd. A company chartered as a common carrier by railroad whose railroad is operated in interstate commerce under lease or other arrangement by a carrier is itself subject to the Interstate Commerce Act and consequently is an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts. However, Heartland is an association composed primarily of shippers which has no employees, has nothing to do with carrier operations other than its ownership of the rail property it leases to Interstate, and is not subject to the Interstate Commerce Act (the Interstate Commerce Commission stated that "Heartland's purchase [of the rail property] is not a regulated transaction. Heartland is not a carrier, is not controlled by a rail carrier, and will not become a rail carrier merely as a result of its ownership of the involved properties.").

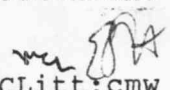
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Based on the foregoing, I conclude that Heartland is not an employer under the Acts administered by the Board.

The completed Form G-215 is attached.

Steven A. Bartholow

Attachment


MCLitt:cmw

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