

JUL 5 1977
77-371.1**Director of Data Processing and Accounts****General Counsel****Sick leave - Dardanelle & Russellville Railroad Company
Sick Pay Plan**

This is in response to your memorandum of May 20, 1977, in which you request an opinion as to whether the sick leave provisions of the above Plan would qualify as a "plan" under section 1(h)(6)(vi) of the Railroad Retirement Act of 1974 (45 U.S.C. § 231(h)(6)(vi)).

The Plan covers all full-time permanent employees and provides for the accumulation of one-half day of sick leave for every two-week period of employment. A maximum of 60 days of sick leave may be accumulated; however, an employee is paid for any sick leave accumulated in excess of 60 days. Sick leave is to be taken only in cases of bona fide illness or to attend the funeral of a close family member. An employer-appointed committee has the discretion to continue an employee's daily pay beyond his number of accrued sick days in unusual cases.

In light of the above I am of the opinion that the submitted Plan constitutes a "plan" within the meaning of the above-cited section of the Railroad Retirement Act, and, therefore, benefits paid pursuant to this Plan, when paid for days of bona fide sickness, and not for funeral leave or for excess accumulations of sick leave, are excludable from compensation under the Act.

**Dale G. Zimmerman
General Counsel**

TWS:mco