

Digest  
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L 78 - 430

Mr. O. L. Selig  
Deputy Executive Director  
Galveston Wharves  
Post Office Box 328  
Galveston, Texas 77550

Dear Mr. Selig:

This is in reply to your letter of February 9, 1978, in which you asked whether the Guaranteed Annual Income plan administered by the West Gulf Maritime Association would qualify as a nongovernmental plan for unemployment insurance. It is my determination that the Guaranteed Annual Income plan which you have submitted is not a nongovernmental plan for unemployment insurance but is, instead, a guaranteed wage plan as its name implies.

Unemployment insurance plans provide emergency benefits to individuals who are unemployed. As insurance, such plans insure against the results of temporary periods of unemployment by providing income at a predetermined subsistence level. In this regard, payments under an unemployment insurance plan are not made with respect to days or weeks for which the individual had earned income, although minimum amounts of "odd job" income or remuneration may be disregarded under certain plans. In keeping with the emergency nature of unemployment insurance plans, benefits are paid at regular intervals, which are generally short, and most often correspond directly to the regular pay periods of the beneficiaries. The obvious and only purpose of such plans is to put funds needed to meet living expenses into the hands of the beneficiaries as the need arises.

Payments are made under guaranteed wage plans to individuals when their earned income falls below a guaranteed level. While such plans obviously can provide payments with respect to periods of total unemployment they can, and often do, provide payments with respect to periods during which an individual may have had substantial earnings well above the

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subsistence level, and individuals could receive payments under the plan for periods during which they were not unemployed at any time. However these plans may function in individual cases, the fact that payments under the plans can be made to individuals with respect to periods when they were not unemployed is sufficient to warrant a finding that the true nature of the payments made under such plans is a form of compensation or pay for time lost, rather than unemployment benefits.

To be considered a nongovernmental unemployment insurance plan for purposes of the Railroad Unemployment Insurance Act, a plan must be a true unemployment insurance plan which provides benefits which are tied directly to periods of unemployment. Most often, payments under such plans will be provided from a special reserve fund or under an insurance plan paid for by the employer. Benefits under the plan must be supplemental to benefits which are paid under the Railroad Unemployment Insurance Act.

While I find no difficulty with respect to the financing on the supplementation features of the plan you have submitted, it appears to me that payments under the plan must be considered compensation. However, I do not feel that the plan would require substantial modification in order to qualify as a nongovernmental plan for unemployment insurance. In this regard, you may wish to correspond on this matter with Mr. E. E. Koch, who is the Director of the Bureau of Unemployment and Sickness Insurance of the Railroad Retirement Board.

Very truly yours,

Dale G. Zimmerman  
General Counsel

LRS:DDL:bbt

*WES*  
cc: Director of Unemployment  
and Sickness Insurance