

DIGEST

Director of Data Processing and Accounts

AUG 26 1977  
L 77 - 424.2

General Counsel

Sick leave - Agreement between The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees

This is in response to your memorandum of June 20, 1977, in which you request an opinion as to whether the sick leave provisions of the above agreement 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)).

Rule 54 (Sick Leave) of the above agreement covering clerks provides that no deduction will be made from the pay of a covered employee for a specified number of days for absence on account of a bona fide sickness. Benefits paid an individual under this Rule are reduced by the amount of any benefits he receives under the Railroad Unemployment Insurance Act.

In light of the above I am of the opinion that the sick leave provisions of the submitted agreement constitute a "plan" within the meaning of the above-cited section of the Railroad Retirement Act, and, therefore, benefits paid pursuant to these provisions are excludable from compensation under the Act.

Dale G. Zimmerman  
General Counsel

TWS:mco