

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

Number: **200520027**

Release Date: 5/20/2005

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date: January 6, 2004

to: Director, Submission Processing  
Cincinnati, OH  
Attn: Entity Unit

from: Office of Division Counsel/Associate Chief Counsel  
Tax Exempt & Government Entities

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subject: Railroad Retirement Tax Act Status

In accordance with the coordination procedure established between the Service and the Railroad Retirement Board (RRB), the RRB has provided us with its opinion that the following business is not an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act:

We have reviewed the opinion of the RRB and, based upon the information submitted to us by the RRB, we also conclude that \_\_\_\_\_ is not an employer under the Railroad Retirement Tax Act. We do not have sufficient information to determine whether we agree with the RRB's opinion that the persons treated by

as its employees are not covered employees of other entities which are covered employers under the Railroad Retirement Tax Act.

In addition, we note that the RRB opinion indicates that \_\_\_\_\_ provides services to its clients, some of whom include covered employers, through a relatively large number of persons whom \_\_\_\_\_ treats as independent contractors. The RRB opinion does not

determine the status of these contractors. Nor do we have sufficient information to determine whether such persons should be treated as independent contractors or employees. Please take the appropriate action regarding this business.

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Janine Cook

cc: