



Legal Opinion L-2001-04
February 1, 2001

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TO : Ronald Russo
Director of Policy and Systems

FROM : Steven A. Bartholow
General Counsel

SUBJECT : CSX Special Enhanced Pension Benefits Program

This is in reply to your memorandum dated January 24, 2001, regarding the "Special Enhanced Benefits Program" being offered by CSX Transportation, Inc.

This program is being offered in connection with the termination of the employment of selected employees. It consists of two alternative options being offered to these employees. One is a lump sum option where an employee may receive a lump sum or a monthly payment based on the employee's years of service and monthly base pay. The other is the 2+2 option, pursuant to which the employee will receive credit for two additional years of age and of service for all purposes under the CSXT pension plan.

You inquire as to whether the payments made pursuant to the lump sum option constitute a separation allowance which would cause a disqualification under the Railroad Unemployment Insurance Act (RUIA), and whether they would be considered remuneration under the RUIA and compensation under the Railroad Retirement Act (RRA). You ask the same questions regarding the 2+2 option.

As you point out, under Legal Opinions L-96-9, L-97-40, and others, the lump sum payment would constitute a separation allowance under section 4(a-1)(iii) of the RUIA so as to create a disqualification. These payments would also constitute remuneration under the RUIA and creditable compensation under the RRA (see sections 211.10 and 322.7 of the RRB's regulations), but would not constitute remuneration or compensation for any day after cessation of employment.

However, the 2+2 option constitutes a pension enhancement pursuant to which an individual is credited with additional years of service and age for the purposes of qualifying for a pension or for increasing the amount of pension payable in return for election of retirement. See Legal Opinion L-96-9. A pension enhancement does not constitute a separation allowance and therefore would not trigger a disqualification under section 4(a-1)(iii) of the RUIA or constitute remuneration or compensation under the RUIA or RRA, respectively.