

EMPLOYER STATUS DETERMINATION

Argus Computing, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Argus Computing, Inc. (Argus) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

By letter dated February 8, 1995, Mr. Walter W. Howland, of Kansas City Southern Industries, Inc., parent company of Kansas City Southern Railway Company (BA No. 1806) (KCS), provided to the RRB a copy of a 1987 examination report of the Internal Revenue Service (IRS) involving Argus. Specifically, the IRS addressed the question of whether Argus was an employer under section 3231(a) of the Railroad Retirement Tax Act [26 U.S.C. §3231(a)]. The IRS letter stated that on March 26, 1984, Argus entered into an agreement with KCS, the Louisiana & Arkansas Railway Company (L&AR) (BA No. 1808), a wholly owned subsidiary of KCS, and their subsidiary companies to provide computer services in development, operation and maintenance of computing systems. Under the terms of the agreement, Argus designed software programs; performed programming, testing, installation, documentation, expansion, modification, and maintenance; solved problems; consulted with outside sources; and provided database management, telecommunications, equipment, software and computer-related services to KCS and L&AR (KCS Lines). Argus also performed other miscellaneous activities necessary to support KCS Lines' required computer system service level, effecting all computer operations and related equipment, including modification of existing systems and maintenance of software and systems, updating the systems as needed, and documenting all work and providing security for the same. Argus was required under the agreement to provide the necessary personnel to perform its duties under the contract. In 1985, 25 Argus employees were assigned full-time to perform the contract duties, and in 1986, 23 employees of Argus were assigned full-time to the contract duties. These numbers represented about 50% of Argus' employees. The agreement was terminated effective May 31, 1986. All of the employees of Argus that had been assigned full-time to the contract were physically transferred to KCS and became employees of KCS. The IRS letter noted that 96% of Argus' income came from KCS. The IRS concluded that Argus was an employer under the RRTA and assessed taxes for the two years involved in the examination (1985 and 1986). The names, social security numbers, and RRTA taxes assessed for the affected employees are listed on forms attached to the IRS letter.

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In a letter dated June 23, 1995, to the Board's Chief of Audit and Compliance, Mr. Howland stated that when it began operations, Argus provided computer and data processing services for the pharmaceutical, health care and transportation industries. Mr. Howland stated that subsequent to 1986, no further relationship has existed between KCS and Argus. Mr. Howland indicated further that after 1986 Argus continued to provide computer and data processing services to the health care industry.

Because the IRS held that Argus was a covered employer under the RRTA for 1985 and 1986, assessed RRTA taxes for those years on particular employees whose names, social security numbers, and number of months of creditable service for those years are appended to the IRS letter, the Board finds that Argus was an employer under the RRA and the RUIA for those same years covered by the IRS examination, 1985 and 1986. Since Argus has not provided any services for the railroad industry since 1986, the Board finds further that Argus has not been an employer under the RRA and the RUIA since December 31, 1986.

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