



COMMONWEALTH of VIRGINIA

Department of Taxation
Richmond, Virginia 23282

MEMORANDUM

TO: William J. West, Supervisor
Technical Services Section

DATE: April 22, 1985

RE: Taxability of Title VII Benefits (Conrail Benefits and Termination Allowances)

This will reply to your memorandum of April 10, 1985 in which you wish to determine whether benefits received under Title VII of the Regional Rail Reorganization Act of 1973 are subject to the Virginia income tax.

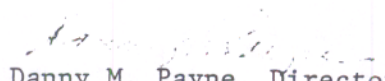
Subchapter VII of the Regional Rail Reorganization Act of 1973 (the act), found at 45 U.S.C. 797, provides various benefits for the protection of employees of the Consolidated Rail Corporation (Conrail). These benefits include allowances for employees deprived of employment because of Conrail's takeover of certain private railroads, moving expenses for employees who must relocate to continue employment, retraining expenses for employees seeking employment in new areas, termination allowances, and health and welfare insurance premiums.

A thorough review of Subchapter VII of the act reveals no prohibition against the federal or state taxation of such benefits. Further, a review of Subchapter V of the act (enacted in 1973, but repealed and replaced by Subchapter VII in 1981) and the legislative history of the act reveals no indication that such benefits were to be exempted from tax in any way.

Neither does an exemption seem to be available under the federal prohibition found at 45 U.S.C. 231m against state taxation of Railroad Retirement Board annuities or supplemental annuities. Federal law at 45 U.S.C. 797d(b) does provide that "any benefits received by an employee (of Conrail) under an agreement entered into pursuant to section 797...and any determination allowance received under section 797a...shall be considered compensation solely for purposes of...the Railroad Retirement Act of 1974. However, employee "compensation" is merely used in the base for computing Railroad Retirement Board annuities and supplemental annuities, so Conrail benefits cannot be classified in any way as exempt annuities or supplemental annuities it seems. Such a conclusion seems only logical since the exempted Railroad Retirement benefits are in the nature of retirement and Social Security benefits while the Conrail benefits in question are provided to active or recently terminated employees.

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In conclusion, I find no basis under federal law to preclude taxation of Title VII Conrail benefits by the states. Inasmuch as such benefits are apparently included in the federal adjusted gross income of their recipients, they should be included in Virginia taxable income.


Danny M. Payne, Director
Tax Policy Division

APPROVED: 

W. H. Forst
Tax Commissioner