

IN THE SUPREME COURT OF THE UNITED STATES

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No. 17-1042

BNSF RAILWAY COMPANY, PETITIONER

v.

MICHAEL D. LOOS

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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MOTION OF THE UNITED STATES AS AMICUS CURIAE  
FOR DIVIDED ARGUMENT AND TO PARTICIPATE IN ORAL ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for divided argument and for leave to participate in the oral argument in this case as amicus curiae supporting petitioner and requests that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting petitioner. Petitioner has consented to an allocation of ten minutes of its time to the United States.

This case presents the question whether an employer's payment

of back pay to an employee for time during which the employee was unable to work due to on-the-job injury constitutes taxable "compensation" under the Railroad Retirement Tax Act (RRTA), 26 U.S.C. 3201 et seq. The United States has a substantial interest in the resolution of that question because the United States receives the taxes paid on compensation under the RRTA, which are used to fund retirement benefits that the United States pays to railroad workers under the Railroad Retirement Act, 45 U.S.C. 231 et seq. The Treasury Department has issued a regulation that addresses the question presented, and the United States previously filed a brief supporting petitioner in the court of appeals.

Because participation in oral argument by the United States will provide the Court with the United States' perspective on the questions presented, division of argument will materially assist the Court in its consideration of the case.

Respectfully submitted.

NOEL J. FRANCISCO  
Solicitor General  
Counsel of Record

SEPTEMBER 2018