

§ 31.3121(a)(14)-1

Example. A, an employee, receives a salary of \$1,500 a month, payable on the 5th day of the month following the month for which the salary is earned. A's employer has established an incentive compensation plan for a class of his employees, including A, providing for the payment of deferred compensation on termination of employment, including termination upon an employee's death, retirement at age 65 (the retirement age specified in the plan), or retirement for disability. On March 1, 1973, A attains the age of 65 and retires. On March 5, 1973, A receives \$5,500 from his employer of which \$1,500 represents A's salary for services he performed in February 1973, and \$4,000 represents incentive compensation paid under the employer's plan. The amount of \$4,000 is excluded from "wages" under this section. The amount of \$1,500 is not excluded from "wages" under this section.

[T.D. 7374, 40 FR 30949, July 24, 1975]

§ 31.3121(a)(14)-1 Payments by employer to survivor or estate of former employee.

The term "wages" does not include any payment by an employer to a survivor or the estate of a former employee made after 1972 and after the calendar year in which such employee died.

[T.D. 7374, 40 FR 30950, July 24, 1975, as amended by T.D. 7373, 40 FR 30957, July 24, 1975]

§ 31.3121(a)(15)-1 Payments by employer to disabled former employee.

The term "wages" does not include any payment made after 1972 by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any service for such employer during the period for which such payment is made.

[T.D. 7374, 40 FR 30950, July 24, 1975, as amended by T.D. 7373, 40 FR 30957, July 24, 1975]

§ 31.3121(a)(18)-1 Payments or benefits under a qualified educational assistance program.

The term "wages" does not include any payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning

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after December 31, 1978, if at the time of such payment or furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

[T.D. 7898, 48 FR 31019, July 6, 1983]

§ 31.3121(b)-1 Employment; services to which the regulations in this subpart apply.

(a) The provisions of the regulations in this subpart relating to the term "employment" apply with respect to services performed after 1954. Certain provisions also apply with respect to services performed before 1955 for which the remuneration is paid after 1954 (see paragraph (b) of § 31.3121(b)-2. For provisions relating generally to services performed before 1955, see paragraph (a) of § 31.3121 (b)-2. For provisions relating to the circumstances under which services which do not constitute employment are nevertheless deemed to be employment, and relating to the circumstances under which services which constitute employment are nevertheless deemed not to be employment, see § 31.3121 (c)-1. For provisions relating to who are employees and who are employers see §§ 31.3121 (d)-1 and 31.3121 (d)-2, respectively.

(b) The taxes apply with respect to remuneration paid after 1954 for services performed before 1955, as well as for services performed after 1954, to the extent that the remuneration and services constitute wages and employment. See §§ 31.3121(a)-1 to 31.3121(a)(13)-1 relating to wages.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6983, 33 FR 18015, Dec. 4, 1968]

§ 31.3121(b)-2 Employment; services performed before 1955.

(a) *General rule.* (1) Subject to the provisions of paragraph (b) of this section:

(i) Services performed after 1936 and before 1955 which were employment under the applicable law in effect before 1955 constitute employment under section 3121(b).

(ii) Services performed after 1936 and before 1955 which were not employment under the applicable law in effect before 1955 do not constitute employment under section 3121(b).