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Section 31.6081–1 also issued under 26 U.S.C. 6081.

Section 31.6205–2 is also issued under 26 U.S.C. 6205(a)(1).

Sections 31.6302–1 through 31.6302–3 also issued under 26 U.S.C. 6302 (a), (c), and (h).

Section 31.6302–4 also issued under 26 U.S.C. 6302 (a) and (c).

Section 31.6302(c)–2A is also issued under 26 U.S.C. 6302 and 6157(d).

Section 31.6302(c)–3 also issued under 26 U.S.C. 6302(h).

SOURCE: T.D. 6516, 25 FR 13032, Dec. 20, 1960; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

Subpart A—Introduction

§ 31.0–1 Introduction.

(a) *In general.* The regulations in this part relate to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Internal Revenue Code of 1954, as amended. References in the regulations to the ''Internal Revenue Code'' or the ''Code'' are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, and the Federal Unemployment Tax Act are references to chapters 21, 22, and 23, respectively, of the Code. References to sections of law are references to sections of the Internal Revenue Code unless otherwise indicated. The regulations in this part also provide rules relating to the deposit of other taxes by electronic funds transfer.

(b) *Division of regulations.* The regulations in this part are divided into 7 subparts. Subpart A contains provisions relating to general definitions and use of terms, the division and scope of the regulations in this part, and the extent to which the regulations in this part supersede prior regulations relating to employment taxes. Subpart B relates to the taxes under the Federal Insurance Contributions Act. Subpart C relates to the taxes under the Railroad Retirement Tax Act. Subpart D relates to the tax under the Federal Unemployment Tax Act. Subpart E relates to the collection of income tax at source on wages under chapter 24 of the Code. Subpart F relates to the provisions of chapter 25 of the Code which are applicable in respect of the taxes imposed by chapters 21 to 24, inclusive, of the Code. Subpart G relates to selected provisions of subtitle F of the Code, relating to procedure and administration, which have special application in respect of the taxes imposed by subtitle C of the Code. Inasmuch as these regulations constitute Part 31 of Title 26 of the Code of Federal Regulations, each section of the regulations is preceded by a section symbol and 31 followed by a decimal point (§ 31.). Sections of law or references thereto are preceded by ''Sec.'' or the word ''section''.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 8723, 62 FR 37492, July 14, 1997]

§ 31.0–2 General definitions and use of terms.

(a) *In general.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The Internal Revenue Code of 1954 means the act approved August 16, 1954 (26 U.S.C.), entitled ''An act to revise the internal revenue laws of the United States'', as amended.

(3) The Internal Revenue Code of 1939 means the act approved February 10, 1939 (53 Stat., Part 1), as amended.

(4) The Social Security Act means the act approved August 14, 1935 (42 U.S.C. c. 7), as amended.

(5) (i) The Social Security Amendments of 1954 means the act approved September 1, 1954 (68 Stat. 1052), as amended.

(ii) The Social Security Amendments of 1956 means the act approved August 1, 1956 (70 Stat. 807), as amended.

(iii) The Social Security Amendments of 1958 means the act approved August 28, 1958 (72 Stat. 1013), as amended.

(iv) The Social Security Amendments of 1960 means the act approved September 13, 1960 (74 Stat. 924).

(v) The Social Security Amendments of 1961 means the act approved June 30, 1961 (75 Stat. 131).

(vi) The Social Security Amendments of 1965 means the act approved July 30, 1965 (79 Stat. 286).

(vii) The Social Security Amendments of 1967 means the act approved January 2, 1968 (81 Stat. 821).

(viii) The Social Security Amendments of 1972 means the act approved October 30, 1972 (86 Stat. 1329).

(6) The Social Security Administration means the Social Security Administration of the Department of Health and Human Services. (See the Statement of Organization and delegations of Authority of the Department of Health and Human Services (20 CFR Part 1996).)

(7) District director means district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(8) Person includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(9) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

(10) Account number means the identifying number of an employee assigned, as the case may be, under the Internal Revenue Code of 1954, under Subchapter A of Chapter 9 of the Internal Revenue Code of 1939, or under Title VIII of the Social Security Act. See also §301.7701–11 of this chapter (Regulations on Procedure and Administration).

(11) Identification number means the identifying number of an employer assigned, as the case may be, under the Internal Revenue Code of 1954, under Subchapter A or D of Chapter 9 of the Internal Revenue Code of 1939, or under Title VIII of the Social Security Act. See also §301.7701–12 of this chapter (Regulations on Procedure and Administration).

(12) Regulations 90 means the regulations approved February 17, 1936 (26 CFR (1939) Part 400), as amended, relating to the excise tax on employers under Title IX of the Social Security Act, and such regulations as made applicable to Subchapter C of Chapter 9 and other provisions of the Internal Revenue Code of 1939 by Treasury Decision 4885, approved February 11, 1939 (26 CFR (1939) 1943 Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code of 1939.

(13) Regulations 91 means the regulations approved November 9, 1936 (26 CFR (1939) Part 401), as amended, relating to the employees' tax and the employers' tax under Title VIII of the Social Security Act, and such regulations as made applicable to Subchapter A of Chapter 9 and other provisions of the Internal Revenue Code of 1939 by Treasury Decision 4885, approved February 11, 1939 (26 CFR (1939) 1943 Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code of 1939.

(14) Regulations 106 means the regulations approved February 24, 1940 (26 CFR (1939) Part 402), as amended, relating to the employees' tax and the employers' tax under the Federal Insurance Contributions Act (Subchapter A of Chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1939 and before 1951.

(15) Regulations 107 means the regulations approved September 12, 1940 (26 CFR (1939) Part 403), as amended, relating to the excise tax on employers under the Federal Unemployment Tax Act (Subchapter C of Chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1939 and before 1955.

(16) Regulations 114 means the regulations approved December 30, 1948 (26 CFR (1939) Part 411), as amended, relating to the employers' tax, employees' tax, and employee representatives' tax under the Railroad Retirement Tax Act (Subchapter B of Chapter 9 of the Internal Revenue Code of 1939) with respect to compensation paid after 1948

for services rendered after 1946 and before 1955.

(17) Regulations 120 means the regulations approved December 22, 1953 (26 CFR (1939) Part 406), as amended, relating to collection of income tax at source on wages under Subchapter D of Chapter 9 of the Internal Revenue Code of 1939 with respect to the period after 1953 and before 1955.

(18) Regulations 128 means the regulations approved December 6, 1951 (26 CFR (1939) Part 408), as amended, relating to the employee tax and the employer tax under the Federal Insurance Contributions Act (Subchapter A of Chapter 9 of the Internal Revenue Code of 1939) with respect to the period after 1950 and before 1955.

(19) The cross references in the regulations in this part to other portions of the regulations, when the word ''see'' is used, are made only for convenience and shall be given no legal effect.

(b) *Subpart B.* As used in Subpart B of this part, unless otherwise expressly indicated—

(1) Act means the Federal Insurance Contributions Act.

(2) Taxes means the employee tax and the employer tax, as respectively defined in this paragraph.

(3) Employee tax means the tax (with respect to wages received by an employee after Dec. 31, 1965, the taxes) imposed by section 3101 of the Code.

(4) Employer tax means the tax (with respect to wages paid by an employer after Dec. 31, 1965, the taxes) imposed by section 3111 of the Code.

(c) *Subpart C.* As used in Subpart C of this part, unless otherwise expressly indicated—

(1) Act means the Railroad Retirement Tax Act.

(2) Railway Labor Act means the act approved May 20, 1926 (45 U.S.C. c. 8), as amended.

(3) Railroad Retirement Act of 1937 means the act approved June 24, 1937 (45 U.S.C. 228a and following), as amended.

(4) Railroad Retirement Board means the board established pursuant to section 10 of the Railroad Retirement Act of 1937 (45 U.S.C. 228j).

(5) Tax means the employee tax, the employee representative tax, or the employer tax, as respectively defined in this paragraph.

(6) Employee tax means the tax imposed by section 3201 of the Code.

(7) Employee representative tax means the tax imposed by section 3211 of the Code.

(8) Employer tax means the tax imposed by section 3221 of the Code.

(d) *Subpart D.* As used in Subpart D of this part, unless otherwise expressly indicated:

(1) Act means the Federal Unemployment Tax Act.

(2) Railroad Unemployment Insurance Act means the act approved June 25, 1938 (45 U.S.C. c. 11), as amended.

(3) Tax means the tax imposed by section 3301 of the Code.

(e) *Subpart E.* As used in Subpart E of this part, unless otherwise expressly indicated, tax means the tax required to be deducted and withheld from wages under section 3402 of the Code.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6606, 27 FR 8516, Aug. 25, 1962; T.D. 6658, 28 FR 6631, June 27, 1963; T.D. 6983, 33 FR 18013, Dec. 4, 1968; T.D. 7280, 38 FR 18369, July 10, 1973]

§31.0–3 Scope of regulations.

(a) *Subpart B.* The regulations in Subpart B of this part relate to the imposition of the employee tax and the employer tax under the Federal Insurance Contributions Act with respect to wages paid and received after 1954 for employment performed after 1936. In addition to employment in the case of remuneration therefor paid and received after 1954, the regulations in Subpart B of this part relate also to employment performed after 1954 in the case of remuneration therefor paid and received before 1955. The regulations in Subpart B of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Federal Insurance Contributions Act, such as ''employee'', ''wages'', and ''employment''. The provisions of Subpart B of this part relating to ''employment'' are applicable also, (1) to the extent provided in §31.3121(b)–2, to services performed before 1955 the remuneration for which is paid after 1954, and (2) to the extent provided in §31.3121(k)–3, to services performed before 1955 the remuneration

for which was paid before 1955. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 408 (Regulations 128).)

(b) *Subpart C.* The regulations in Subpart C of this part relate to the imposition of the employee tax, the employee representative tax, and the employer tax under the Railroad Retirement Tax Act with respect to compensation paid after 1954, for services rendered after such date. The regulations in Subpart C of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Railroad Retirement Tax Act, such as ''employee'', ''employee representative'', ''employer'', and ''compensation''. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 411 (Regulations 114).)

(c) *Subpart D.* The regulations in Subpart D of this part relate to the imposition on employers of the excise tax under the Federal Unemployment Tax Act for the calendar year 1955 and subsequent calendar years with respect to wages paid after 1954 for employment performed after 1938. In addition to employment in the case of remuneration therefor paid after 1954, the regulations in Subpart D of this part relate also to employment performed after 1954 in the case of remuneration therefor paid before 1955. The regulations in Subpart D of this part include provisions relating to the definition of terms applicable in the determination of the tax under the Federal Unemployment Tax Act, such as ''employee'', ''employer'', ''employment'', and ''wages''. The regulations in Subpart D of this part also include provisions relating to the credits against the Federal tax for State contributions. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 403 (Regulations 107).)

(d) *Subpart E.* The regulations in Subpart E of this part relate to the withholding under chapter 24 of the Code of income tax at source on wages paid after 1954, regardless of when such wages were earned. The regulations in Subpart E of this part include provisions relating to the definition of terms applicable in the determination of the tax under chapter 24 of the Code, such as ''employee'', ''employer'', and ''wages''. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 406 (Regulations 120).)

(e) *Subpart F.* The regulations in Subpart F of this part deal with the general provisions contained in chapter 25 of the Code, which relate to the employment taxes imposed by chapters 21 to 24, inclusive, of the Code. (For prior regulations on the subject matter of section 3503, see 26 CFR (1939) 411.802 and 408.803 (Regulations 114 and 128, respectively). For prior regulations on the subject matter of section 3504, see 26 CFR (1939) 406.807 and 408.906 (Regulations 120 and 128, respectively).)

(f) *Subpart G.* The regulations in Subpart G of this part, which are prescribed under selected provisions of subtitle F of the Code, relate to the procedural and administrative requirements in respect of records, returns, deposits, payments, and related matters applicable to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Code. In addition, the provisions of Subpart G of this part relate to adjustments and to claims for refund, credit, or abatement, made after 1954, in connection with the employment taxes imposed by subtitle C of the Internal Revenue Code of 1954, by chapter 9 of the Internal Revenue Code of 1939, or by the corresponding provisions of prior law, but not to any adjustment reported, or credit taken, in whole or in part on any return or supplemental return filed on or before July 31, 1960. The provisions of Subpart G of this part also relate to deposits of taxes imposed by subchapter B of chapter 9 of the 1939 Code or by corresponding provisions of prior law with respect to compensation paid after 1954 for services rendered before 1955. For other administrative provisions which have application to the employment taxes imposed by subtitle C of the Code, see Part 301 of this chapter (Regulations on Procedure and Administration). (The administrative and procedural regulations applicable with respect to a particular employment tax for a prior period were combined with the substantive regulations relating to such tax for such period. For the regulations applicable to the respective taxes for prior periods, see paragraphs (a), (b), (c), and (d) of this section.) Subpart G of this part also provides

rules relating to the deposit of other taxes by electronic funds transfer.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6744, 29 FR 8305, July 2, 1964; T.D. 8723, 62 FR 37493, July 14, 1997]

§ 31.0–4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede 25 CFR (1939) Parts 403, 406, 408, and 411 (Regulations 107, 120, 128, and 114, respectively). The Regulation on Monthly Returns and Payment of Employment Taxes (23 FR 5006) are also superseded.

Subpart B—Federal Insurance Contributions Act (Chapter 21, Internal Revenue Code of 1954)

TAX ON EMPLOYEES

§ 31.3101–1 Measure of employee tax.

The employee tax is measured by the amount of wages received after 1954 with respect to employment after 1936. See § 31.3121(a)–1, relating to wages; and §§ 31.3121(b)–1 to 31.3121(b)–4, inclusive, relating to employment. For provisions relating to the time of receipt of wages, see § 31.3121(a)–2.

[T.D. 6744, 29 FR 8305, July 2, 1964]

§ 31.3101–2 Rates and computation of employee tax.

(a) *Old-age, survivors, and disability insurance.* The rates of employee tax for old-age, survivors, and disability insurance with respect to wages received in calendar years after 1954 are as follows:

Calendar year	Percent
1955 and 1956	2
1957 and 1958	2.25
1959	2.5
1960 and 1961	3
1962	3.125
1963 to 1965, both inclusive	3.625
1966	3.85
1967	3.9
1968	3.8
1969 and 1970	4.2
1971 and 1972	4.6
1973	4.85
1974 to 2010, both inclusive	4.95
2011 and subsequent calendar years	5.95

(b) *Hospital insurance.* The rates of employee tax for hospital insurance with respect to wages received in calendar years after 1965 are as follows:

Calendar year	Percent
1966	0.35
1967	.50
1968 to 1972, both inclusive	.60
1973	1.0
1974 to 1977, both inclusive	0.90
1978 to 1980, both inclusive	1.10
1981 to 1985, both inclusive	1.35
1986 and subsequent calendar years	1.50

(c) *Computation of employee tax.* The employee tax is computed by applying to the wages received by the employee the rate in effect at the time such wages are received.

Example. In 1972, employee A performed for employer X services which constituted employment (see § 31.3121(b)–2). In 1973 A receives from X $1,000 as remuneration for such services. The tax is payable at the 5.85 percent rate (4.85 percent plus 1.0 percent) in effect for the calendar year 1973 (the year in which the wages are received) and not at the 5.2 percent rate which was in effect for the calendar year 1972 (the year in which the services were performed).

[T.D. 7374, 40 FR 30947, July 24, 1975]

§ 31.3101–3 When employee tax attaches.

The employee tax attaches at the time that the wages are received by the employee. For provisions relating to the time of such receipt, see § 31.3121(a)–2.

§ 31.3102–1 Collection of, and liability for, employee tax; in general.

(a) The employer shall collect from each of his employees the employee tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from such wages as and when paid. (For provisions relating to the time of such payment, see § 31.3121(a)–2.) The employer is required to collect the tax, notwithstanding the wages are paid in something other than money, and to pay over the tax in money. (As to the exclusion from wages of remuneration paid in any medium other than cash for certain types of services, see § 31.3121(a)(7)–1, relating to such remuneration paid for service not in the course of the employer's