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of service, none of the retirement payments made to the employee under the pension plan (including any made after he is 65) is excludable from ''wages'' under this section. However, if the pension plan had conditioned retirement after 30 years of service upon attainment of age 60, all of the retirement payments would have been excludable.

(b) *Plan.* The plan or system established by an employer need not provide for payments because of termination of employment for all the reasons set out in paragraphs (a)(1), (2), and (3) of this section, but such plan or system may provide for payments because of termination for any one or more of such reasons. Payments because of termination of employment for any one or more of such reasons under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(c) *Dependents.* Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(d) *Benefit payment.* It is immaterial for purposes of this exclusion whether the amount or possibility of benefit payments is paid on account of services rendered or taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

(e) *Example.* The application of this section may be illustrated by the following example:

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 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