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(v) A vessel includes every description of watercraft, or other contrivance, used as a means of transportation on water. An aircraft includes every description of craft, or other contrivance, used as a means of transportation through the air. In the case of an aircraft, the term ''port'' means an airport. An airport means an area on land or water used regularly by aircraft for receiving or discharging passengers or cargo. For definitions of ''American vessel'' and ''American aircraft'', see §31.3121(f)–1.

(vi) With respect to services performed outside the United States on or in connection with an American vessel or American aircraft, the citizenship or residence of the employee is immaterial, and the citizenship or residence of the employer is material only in case it has a bearing in determining whether a vessel is an American vessel.

(3) *By a citizen of the United States as an employee for an American employer.* Services performed after 1954 outside the United States by a citizen of the United States as an employee for an American employer constitute employment provided the services are not specifically excepted under section 3121(b). For definitions of ''citizen of the United States'' and ''American employer'', see §§31.3121(e)–1 and 3121 (h)–1, respectively.

(4) *By a citizen of the United States as an employee for a foreign subsidiary corporation.* For provisions relating to the extension of the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act to certain services not constituting employment which are performed outside the United States by citizens of the United States in the employ of a foreign subsidiary of a domestic corporation, see section 3121(1) and Part 36 of this chapter (Regulations Relating to Contract Coverage of Employees of Foreign Subsidiaries).

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6744, 29 FR 8309, July 2, 1964]

### §31.3121(b)–4 Employment; excepted services in general.

(a) Services performed by an employee for an employer do not constitute employment for purposes of the taxes if they are specifically excepted from employment under any of the numbered paragraphs of section 3121(b). Services so excepted do not constitute employment for purposes of the taxes even though they are performed within the United States, or are performed outside the United States on or in connection with an American vessel or American aircraft, or are performed outside the United States by a citizen of the United States for an American employer. If not otherwise provided in the regulations relating to the numbered paragraphs of section 3121(b), such regulations apply to services performed after 1954.

(b) The exception attaches to the services performed by the employee and not to the employee as an individual; that is, the exception applies only to the services in an excepted class rendered by the employee.

*Example.* A is an individual who is employed part time by B to perform services which are specifically excepted from employment under one of the numbered paragraphs of section 312(b). A is also employed by C part time to perform services which constitute employment. While no tax liability is incurred with respect to A's remuneration for services performed in the employ of B (the services being excepted from employment), the exception does not embrace the services performed by A in the employ of C (which constitute employment) and the taxes attached with respect to the wages (see §31.3121(a)–1) for such services.

(c) For provisions relating to the circumstances under which services which are excepted are nevertheless deemed to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment, see §31.3121(c)–1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6744, 29 FR 8310, July 2, 1964]

### §31.3121(b)(1)–1 Certain services performed by foreign agricultural workers, or performed before 1959 in connection with oleoresinous products.

(a) *Services of workers from Mexico.* Services performed before 1965 by foreign agricultural workers from the Republic of Mexico under contracts entered into in accordance with title V of

the Agricultural Act of 1949, as amended, are excepted from employment. Contracts entered into pursuant to the provisions of such title V may provide for the performance only of services which constitute ''agricultural employment''. The term ''agricultural employment'' includes certain services which do not constitute ''agricultural labor'' as that term is defined in section 3121(g) (see § 31.3121(g)–1. For purposes of title V of the Agricultural Act of 1949, as amended, the term ''agricultural employment'' includes services or activities included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended, or section 3121(g) of the Internal Revenue Code. Under section 507 of the Agricultural Act of 1949, as amended, and as in effect before October 3, 1961, the term ''agricultural employment'' included also horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products.

(b) *Services of workers from British West Indies.* Services performed by a foreign agricultural worker lawfully admitted to the United States from the Bahamas, Jamaica, or the other British West Indies, on a temporary basis to perform form agricultural labor are excepted from employment.

(c) *Services performed after 1956 by foreign workers.* Services performed after 1956 by a foreign agricultural worker lawfully admitted to the United States from any foreign country or possession thereof, including the Republic of Mexico, on a temporary basis to perform agricultural labor are excepted from employment.

(d) *Services performed before 1959 in connection with the production or harvesting of certain oleoresinous products.* Services performed before 1959 in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided the processing is carried on by the original producer of the crude gum, are expected from employment. However, the services to which this paragraph relates constitute agricultural labor as defined in section 3121(g) (see paragraph (d) of § 31.3121(g)–1). Thus, any cash remuneration paid for such services, to the extent that the services are deemed to constitute employment by reason of the rules relating to included and excluded services continued in section 3121(c) (see § 31.3121(c)–1), is taken into account in applying the test prescribed in section 3121(a)(8)(B) for determining whether cash remuneration paid for agricultural labor constitutes wages (see paragraph (c) of § 31.3121(a)(8)–1).

(e) *Cross-reference.* See paragraph (b) of § 31.3121(b)–2 for provisions relating to the status of services of the character to which paragraphs (a) and (b) of this section apply which were performed before 1955 and the remuneration for which is paid after 1954.

[T.D. 6744, 29 FR 8310, July 2, 1964]

### § 31.3121(b)(2)–1 Domestic service performed by students for certain college organizations.

(a) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For purposes of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

(b) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the