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(4) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. Likewise, services performed in the processing of maple sap into maple sirup or maple sugar do not constitute agricultural labor. On the other hand, services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constitute agricultural labor.

(5) The term ''commodity'' refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in paragraph (e)(1)(iii) of this section has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this paragraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(6) The services described in this paragraph do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this paragraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of paragraph (c) of this section.

(f) *Services described in section 3121(g)(5).* (1) Service not in the course of the employer's trade or business (see paragraph (a)(1) of §31.3121(a)(7)–1) or domestic service in a private home of the employer (see paragraph (a)(2) of §31.3121(a)(7)–1) constitutes agricultural labor if such service is performed on a farm operated for profit. The determination whether remuneration for any such service performed on a farm operated for profit constitutes wages is to be made under §31.3121(a)(8)–1 rather than under §31.3121(a)(7)–1. For provisions relating to the exception from employment provided with respect to any such service performed after 1960 by a father or mother in the employ of his or her son or daughter, see §31.3121(b)(3)–1.

(2) Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6744, 29 FR 8315, July 2, 1964]

§31.3121(h)–1 American employer.

(a) The term ''American employer'' means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State. For provisions relating to the terms ''State'' and ''United States'', see §31.3121(e)–1.

(b) For provisions relating to services performed outside the United States by a citizen of the United States as an employee for an American employer, see paragraph (c)(3) of §31.3121(b)–3 and paragraph (e) of §31.3121(b)(4)–1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6744, 29 FR 8315, July 2, 1964]

§31.3121(i)–1 Computation to nearest dollar of cash remuneration for domestic service.

An employer may, for purposes of the act, elect to compute to the nearest dollar any payment of cash remuneration for domestic service described in section 3121(a)(7)(B) (see §31.3121(a)(7)–1) which is more or less than a whole-dollar amount. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to one dollar. For example, any amount actually paid between $4.50 and $5.49, inclusive, may be treated as $5 for purposes of the taxes imposed by the act. If an employer elects this method of computation with respect to any payment of cash remuneration made in a calendar quarter for domestic service in his private home, he must use the same method in computing each payment of cash remuneration of more or less than a whole-dollar amount made to each of his employees in such calendar quarter for domestic service in his private home. Moreover, if an employer elects this method of computation with respect to payments of the prescribed character made in any calendar quarter, the amount of each payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of the act. Thus, the amount of cash payments so computed to the nearest dollar shall be used for purposes of determining whether such payments constitute wages; for purposes of applying the employee and employer tax rates to the wage payments; for purposes of any required record keeping; and for purposes of reporting and paying the employee tax and employer tax with respect to such wage payments.

§31.3121(i)–2 Computation of remuneration for service performed by an individual as a member of a uniformed service.

In the case of an individual performing service after December 31, 1956, as a member of a uniformed service (see section 31.3121(n)), to which the provisions of section 3121(m)(1) (see §31.3121(m)) are applicable, the term ''wages'' shall, subject to the provisions of section 3121(a)(1) (see §31.3121(a)–1), include as the individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act (38 U.S.C. 401(1), 403; 72 Stat. 1126).

[T.D. 6744, 29 FR 8315, July 2, 1964]

§31.3121(i)–3 Computation of remuneration for service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

In the case of an individual performing service in his capacity as a volunteer or volunteer leader within the meaning of the Peace Corps Act (see section 31.3121(p)), the term ''wages'' shall, subject to the provisions of section 3121(a)(1) (see §31.3121(a)–1), include as such individual's remuneration for such service only amounts paid pursuant to section 5(c) or section 6(1) of the Peace Corps Act (22 U.S.C. 2501; 75 Stat. 612).

[T.D. 6744, 29 FR 8315, July 2, 1964]

§31.3121(i)–4 Computation of remuneration for service performed by certain members of religious orders.

In any case where an individual is a member of a religious order (as defined in section 3121(r)(2) and paragraph (b) of §31.3121(r)–1) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) and §31.3121(r)–1 is in effect with respect to such order or the autonomous subdivision thereof to which such member belongs, the term ''wages'' shall, subject to the provisions of section 3121(a)(1) (relating to