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(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

definition of wages), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision or by any other person or organization pursuant to an agreement (whether written or oral) with such order or subdivision. Such other perquisites shall include any cash either paid by such order or subdivision or paid by another employer and not required by such order or subdivision to be remitted to it. For purposes of this section, perquisites shall be considered to be furnished over the period during which the member receives the benefit of them. (See example 4 of this section.) In no case shall the amount included as such individual's remuneration under this paragraph be less than $100 a month. All relevant facts and elements of value shall be considered in every case. Where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or autonomous subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage. The provisions of this section may be illustrated by the following examples of the treatment of particular perquisites:

Example 1. M is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). Under section 3121(i)(4), M must include in the wages of its members the fair market value of the clothing it provides for its members. M and several other religious orders using essentially the same type of religious habit purchase clothing for their members from either of two suppliers in arms-length transactions. The fair market value of such clothing (*i.e.,* the price at which such items would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell) is determined by reference to the actual sales price of these suppliers to the religious orders.

Example 2. N is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). N operates a seminary adjacent to a university. Students at the university obtain lodging and board on campus from the university for its fair market value of $2,000 for the school year. Such lodging and board is essentially the same as that provided by N at its seminary to N's members subject to a vow of poverty. Accordingly, the amount to be included in the ''wages'' of such members with respect to lodging and board for the same period of time is $2,000.

Example 3. O is a religious order which requires its members to take a vow of poverty and to observe silence, and which has made an election under section 3121(r). O operates a monastery in a remote rural area. Under section 3121(i)(4), O must include in the wages of its members assigned to this monastery the fair market value of the board and lodging furnished to them. In making a determination of the fair market value of such board and lodging, the remoteness of the monastery, as well as the smallness of the rooms and the simplicity of their furnishings, affect this determination. However, the facts that the facility is used by a religious order as a monastery and that the order's members maintain silence do not affect the fair market value of such items.

Example 4. P is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). Several of P's members are attending a university on a full-time basis. The fair market value of the board and lodging of each of such members at the university is $1,000 per semester. P pays the university $1,000 at the beginning of each semester for the board and lodging of each of such members. In addition, P gives each such member a $400 cash advance to cover his miscellaneous expenses during the semester. Under section 3121(i)(4), P must prorate the fair market value of such members' board and lodging, as well as the miscellaneous items, over the semester and include such value in the determination of ''wages''.

Example 5. Q is a religious order which is a corporation organized under the laws of Wisconsin, which requires its members to take a vow of poverty, and which has made an election under section 3121(r). Q has convents in rural South America and in suburbs and central city areas of the United States. Characteristically, in the United States its suburban convents provide somewhat larger and newer rooms for its members than do its convents in city areas. Moreover, its suburban convents have more extensive grounds and somewhat more elaborate facilities than do its older convents in city areas. However, both types of convents limit resident members to a single, plainly furnished room and provide them meals which are comparable. Q's members in South America live in extremely primitive dwellings and otherwise have extremely modest perquisites. Under section 3121(i)(4), Q may report a uniform wage for its members who live in suburban convents and city convents in the United

States, as the board, lodging, and perquisites furnished these members do not vary significantly from one convent to the other. Q may report another uniform wage (but not less than $100 per month apiece) for its members who are citizens of the United States and who reside in South America based on the fair market value of the perquisites furnished these individuals, as the fair market value of the perquisites furnished these individuals varies significantly from that of those furnished its members who live in its domestic convents but does not vary significantly among members in South America whose wages are subject to tax.

[T.D. 7280, 38 FR 18369, July 10, 1973]

§ 31.3121(j)–1 Covered transportation service.

(a) *Transportation systems acquired in whole or in part after 1936 and before 1951*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, all service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and before 1951. For purposes of this subparagraph, it is immaterial whether any part of the transportation system was acquired before 1937 or after 1950, whether the employee was hired before, during, or after 1950, or whether the employee had been employed by the employer from whom the State or political subdivision acquired its transportation system or any part thereof.

(2) *General retirement system protected by State constitution.* Except as provided in paragraph (a)(3) of this section, service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system acquired in whole or in part from private ownership after 1936 and before 1951 does not constitute covered transportation service, if substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which are protected from diminution or impairment under the State constitution by reason of an express provision, dealing specifically with retirement systems established by the State or political subdivisions of the State, which forbids such diminution or impairment.

(3) *Additions to certain transportation systems by acquisition after 1950.* This subparagraph is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was acquired in whole or in part by a State or political subdivision thereof from private ownership after 1936 and before 1951 and then only in case service for such existing transportation system did not constitute covered transportation service by reason of the provisions of subparagraph (2) of this paragraph. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who before the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(b) *Transportation systems in operation on December 31, 1950, no part of which was acquired after 1936 and before 1951*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, no service performed in the employ of a State or a political subdivision thereof in connection with its operation of a