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amount of compensation with respect to which the deduction should be made shall be corrected in accordance with the provisions of Subpart G of the regulations in this part relating to adjustments, credits, refunds, and abatements.

(d) *When fractional part of cent may be disregarded.* In collecting the employee tax, the employer shall disregard any fractional part of a cent of such tax unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(e) *Employer's liability.* The employer is liable for the employee tax with respect to compensation paid by him, whether or not collected from the employee. If the employer deducts less than the correct amount of employee tax or fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. Until collected from him, the employee is also liable for the employee tax. Any employee tax collected by or on behalf of an employer is a special fund in trust for the United States. See section 7501. An employer is not liable to any person for the amount of the employee tax deducted by him and paid to the district director.

(f) *Concurrent employment.* If two or more related corporations who are rail employers concurrently employ the same individual and compensate that individual through a common paymaster, which is one of the related corporations employing the individual, see §31.3121(s)–1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6541, 26 FR 553, Jan 20, 1961; T.D. 6727, 29 FR 5866, May 5, 1964; T.D. 8582, 59 FR 66189, Dec. 23, 1994]

TAX ON EMPLOYEE REPRESENTATIVES

§31.3211–1 Measure of employee representative tax.

The employee representative tax is measured by the amount of compensation received for services rendered as an employee representative. For provisions relating to compensation, see §31.3231(e)–1.

[T.D. 8582, 59 FR 66190, Dec. 23, 1994]

§31.3211–2 Rates and computation of employee representative tax.

(a) *Rates*—(1)(i) *Tier 1 tax.* The Tier 1 employee representative tax rate equals the sum of the tax rates in effect under sections 3101(a) and 3111(a), relating to the employee and the employer tax for old-age, survivors, and disability insurance, and sections 3101(b) and 3111(b), relating to the employee and the employer tax for hospital insurance. The Tier 1 employee representative tax rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i). The contribution base is determined under section 230 of the Social Security Act, and is identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.

(ii) *Example.* The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

Example. B, an employee representative, received compensation of $60,000 in 1992. The sections 3101(a) and 3111(a) rates of 12.4 percent (6.2 percent plus 6.2 percent) would be applied to *B*'s compensation up to $55,500, the applicable contribution base for 1992. The sections 3101(b) and 3111(b) rates of 2.9 percent (1.45 percent plus 1.45 percent) would be applied to the entire $60,000 of *B*'s compensation because the applicable contribution base for 1992 is $130,200.

(2) (i) *Tier 2 tax.* The Tier 2 employee representative tax rate equals the percentage set forth in section 3211(a)(2) of the Code. This rate is applied up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) *Example.* The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

Example. B received compensation of $60,000 in 1992. The section 3211(a)(2) rate of 14.75 percent would be applied to *B*'s compensation up to $41,400, the applicable contribution base for 1992.

(3) *Supplemental Annuity Tax.* The supplemental annuity tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative is imposed at the same rate