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as the excise tax imposed on every employer under section 3221(c). See also § 31.3211–3.

(b) (1) *Computation.* The employee representative tax is computed by multiplying the amount of the employee representative's compensation with respect to which the employee representative tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect when the compensation is received by the employee representative. For rules relating to the time of receipt, see § 31.3121(a)–2 (a) and (b).

(2) *Example.* The rule in paragraph (b)(1) of this section is illustrated by the following example.

Example. In 1990, employee representative *B* received $1,000 as remuneration for services performed for employer *R* in 1989. The employee representative tax is payable at the rate of 30.05 percent (15.30 percent plus 14.75 percent) in effect for 1990 (the year the compensation was received), and not the 29.77 percent rate (15.02 percent plus 14.75 percent) in effect for 1989 (the year the services were performed).

(c) (1) *Rule where compensation is received both as an employee representative and employee.* The following rule applies to an individual who renders service both as an employee representative and as an employee. The employee representative tax is imposed on compensation received as an employee representative under the rules described in § 31.3211–2. The employee tax is imposed on compensation received as an employee under the rules described in § 31.3201–2. However, if the total compensation received is greater than the applicable contribution base, the employee representative tax is imposed on the amount equal to the contribution base less the amount received for services rendered as an employee.

(2) *Example.* The rule in paragraph (c)(1) of this section is illustrated by the following example.

Example. C performed services both as an employee and an employee representative in 1992. *C* received compensation of $40,000 as an employee and $20,000 as an employee representative. *C*'s entire compensation of $40,000 is subject to tax under the rules described in § 31.3201–2. The amount of employee representative compensation subject to the section 3101(a) and the section 3111(a) rate is $15,500 ($55,500 − $40,000). The entire $20,000 is subject to the sections 3101(b) and 3111(b) rates since the combined compensation is less than $130,200, the applicable contribution base for 1992. The amount of the employee representative compensation subject to the section 3211(a)(2) rate is $1,400 ($41,400 − $40,000).

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

§ 31.3211–3 Employee representative supplemental tax.

See paragraphs (a), (b), and (c) of § 31.3221–3 for rules applicable to the supplemental tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative.

[T.D. 8525, 59 FR 9666, Mar. 1, 1994]

§ 31.3212–1 Determination of compensation.

See § 31.3231(e)–1 for regulations applicable to compensation.

TAX ON EMPLOYERS

§ 31.3221–1 Measure of employer tax.

(a) *General Rule*—The employer tax is measured by the amount of compensation paid by an employer to its employees. For provisions relating to compensation, see § 31.3231(e)-1. For provisions relating to the circumstances under which certain compensation is to be disregarded for purposes of determining the employer tax, see paragraphs (b) (1) and (2) of § 31.3231(e)–1.

(b) *Payments by two or more employers in excess of annual compensation limitation.* For rules relating to payments by two or more employers in excess of the annual compensation limitation, see § 31.3121(a)(1)–1.

(c) *Underpayments or overpayments.* Any underpayment or overpayment of employer tax resulting from the employer's inability to determine, at the time such tax is paid, the correct amount of compensation with respect to which the tax should be paid shall be corrected in accordance with the provisions of Subpart G of the regulations in this part relating to adjustments, credits, refunds, and abatements.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6541, 26 FR 555, Jan. 20, 1961; T.D. 8582, 59 FR 66190, Dec. 23, 1994]