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committee are employees of an employer conducting the principal part of its business in the United States; or

(3) He acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer. In such case, if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only a part of his remuneration for such service shall be regarded as compensation. The part of his remuneration regarded as compensation shall be in the same proportion to his total remuneration as the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to section 1(c) of the Railroad Retirement Act of 1937 (45 U.S.C. 228a) shall be applicable. However, no part of his remuneration for such service shall be regarded as compensation if the application of such mileage formula, or such other formula as the Railroad Retirement Board may have prescribed, would result in his compensation for the service being less than 10 percent of his remuneration for such service.

§ 31.3231(c)–1 Who are employee representatives.

(a) An employee representative within the meaning of the act is—

(1) Any officer or official representative of a railway labor organization which is not included as an employer under section 3231(a) who—

(i) Was in the service of an employer either before or after June 29, 1937, and

(ii) Is duly authorized and designated to represent employees in accordance with the Railway Labor Act.

For railway labor organizations which are employers under section 3231(a), see paragraph (a) (5) and (6) of § 31.3231(a)–1.

(2) Any individual who is regularly assigned to or regularly employed by an employee representative, as defined in paragraph (a)(1) of this section, in connection with the duties of such employee representative's office.

(b) In determining whether an individual is an employee representative, his citizenship or residence is material only insofar as those factors may affect the determination of whether he was ''in the service of an employer'' (see paragraph (a) of § 31.3231(b)–1).

§ 31.3231(d)–1 Service.

See § 31.3231(b)–1 for regulations relating to the term ''in the service of an employer.''

§ 31.3231(e)–1 Compensation.

(a) *Definition*—(1) The term *compensation* has the same meaning as the term *wages* in section 3121(a), determined without regard to section 3121(b)(9), except as specifically limited by the Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code) or regulation. The Commissioner may provide any additional guidance that may be necessary or appropriate in applying the definitions of sections 3121(a) and 3231(e).

(2) A payment made by an employer to an individual through the employer's payroll is presumed, in the absence of evidence to the contrary, to be compensation for services rendered as an employee of the employer. Likewise, a payment made by an employee organization to an employee representative through the organization's payroll is presumed, in the absence of evidence to the contrary, to be compensation for services rendered by the employee representative as such. For rules regarding the treatment of deductions by an employer from remuneration of an employee, see § 31.3123–1.

(3) The term *compensation* is not confined to amounts paid for active service, but includes amounts paid for an identifiable period during which the employee is absent from the active service of the employer and, in the case of an employee representative, amounts paid for an identifiable period during which the employee representative is absent from the active service of the employee organization.

(4) Compensation includes amounts paid to an employee for loss of earnings

during an identifiable period as the result of the displacement of the employee to a less remunerative position or occupation as well as pay for time lost.

(5) For rules regarding the treatment of reimbursement and other expense allowance amounts, see § 31.3121(a)–3. For rules regarding the inclusion of fringe benefits in compensation, see § 31.3121(a)–1T.

(b) *Special Rules.* (1) If the amount of compensation earned in any calendar month by an individual as an employee in the service of a local lodge or division of a railway-labor-organization employer is less than $25, the amount is disregarded for purposes of determining the employee tax under section 3201 and the employer tax under section 3221.

(2) Compensation for service as a delegate to a national or international convention of a railway-labor-organization employer is disregarded for purposes of determining the employee tax under section 3201 and the employer tax under section 3221 if the individual rendering the service has not previously rendered service, other than as a delegate, which may be included in the individual's years of service for purposes of the Railroad Retirement Act.

(3) For special provisions relating to the compensation of certain general chairs or assistant general chairs of a general committee of a railway-labor-organization employer, see paragraph (c)(3) of § 31.3231(b)–1.

[T.D. 8582, 59 FR 66191, Dec. 23, 1994]

§ 31.3231(e)–2 Contribution base.

The term *compensation* does not include any remuneration paid during any calendar year by an employer to an employee for services rendered in excess of the applicable contribution base. For rules applying this provision, see § 31.3121(a)(1)–1.

[T.D. 8582, 59 FR 66191, Dec. 23, 1994]

Subpart D—Federal Unemployment Tax Act (Chapter 23, Internal Revenue Code of 1954)

§ 31.3301–1 Persons liable for tax.

Every person who is an employer as defined in section 3306(a) (see § 31.3306(a)–1) is liable for the tax. Even if an employer is not subject to any State unemployment compensation law, he is nevertheless liable for the tax. However, if he is subject to such a State law, he may be entitled to certain credits against the tax (see §§ 31.3302(a)1 to 31.3302(c)–1, inclusive). For provisions relating to payment of the tax, see Subpart G of the regulations in this part.

§ 31.3301–2 Measure of tax.

The tax for any calendar year is measured by the amount of wages paid by the employer during such year with respect to employment after December 31, 1938. (See § 31.3306(b)–1, relating to wages, and §§ 31.3306(c)–1 to 31.3306(c)–3, inclusive, relating to employment.)

[T.D. 6658, 28 FR 6632, June 27, 1963]

§ 31.3301–3 Rate and computation of tax.

(a) The rates of tax with respect to wages paid in calendar years after 1954 are as follows:

	Percent
In the calendar years 1955 to 1960, both inclusive	3
In the calendar year 1961	3.1
In the calendar year 1962	3.5
In the calendar year 1963	3.35
In the calendar year 1964 and subsequent calendar years	3.1

(b) The tax is computed by applying to the wages paid in a calendar year, with respect to employment after December 31, 1938, the rate in effect at the time the wages are paid.

[T.D. 6658, 28 FR 6632, June 27, 1963]

§ 31.3301–4 When wages are paid.

Wages are paid when actually or constructively paid. Wages are constructively paid when they are credited to