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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

the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited to or set apart for the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his own control and disposition. See § 31.6011(a)–3, relating to the return on which wages are to be reported.

§ 31.3302(a)–1 Credit against tax for contributions paid.

(a) *In general.* Subject to the provision of paragraphs (b) and (c) of this section and to the provisions of § 31.3302(c)–1, the taxpayer may credit against the tax for any taxable year the total amount of contributions paid by him into an unemployment fund maintained during such year under a State law which has been found by the Secretary of Labor to contain the provisions specified in section 3304(a); *Provided, however,* That no credit may be taken for contributions under a State law if such State has not been duly certified for the calendar year to the Secretary of the Treasury by the Secretary of Labor. The contributions may be credited against the tax whether or not they are paid with respect to employment as defined in section 3306(c). For provisions relating to additional credit against the tax, see § 31.3302(b)–1.

(b) *Limitation on the taxable year with respect to which contributions are allowable.* In order to be allowable as credit against the tax for any taxable year, the contributions must have been paid with respect to such year.

Example 1. Under the unemployment compensation law of State X, employer M is required to report in his contribution return for the quarter ending December 31, 1955, all remuneration payable for services rendered in such quarter. A portion of such remuneration is not paid to his employees until February 1, 1956. On January 20, 1956, M pays to the State the total amount of contributions due with respect to all remuneration so required to be reported. Such contributions, including those with respect to the remuneration paid on February 1, 1956, may be included in computing the credit against the tax for the calendar year 1955. This is true even though the remuneration paid on February 1, 1956 (if it constitutes ''wages'') is required to be reported in the Federal return for 1956 and not in the Federal return for 1955.

Example 2. Under the unemployment compensation law of State Y, employer N is required to include in his contribution return for the quarter ending December 31, 1955, certain remuneration paid on December 30, to 1955, to an employee for services to be rendered after December 31. On January 20, 1956, N pays to the State the total amount of contributions due with respect to all remuneration required to be reported on the contribution return. Such contributions, including those with respect to the remuneration paid on December 30, 1955, may be included in computing the credit against the tax for the calendar year 1955.

(c) *Limitation on amount of credit allowable based on time when contributions are paid*—(1) *In general.* The amount of credit allowable for contributions paid into a State unemployment fund depends in part on the time of payment of such contributions. Although contributions paid at any time may be credited against the tax (subject to the limitations referred to in paragraphs (c)(2) and (3) of this section), no refund or credit of the tax based on credit for contributions paid will be allowed unless the contributions are paid prior to the expiration of the period of limitations applicable to refund or credit of the tax. For general provisions relating to the limitation period and to refunds, credits and abatements of the tax, see respectively §§ 301.6511(a)–1, 301.6402–2 and 301.6404–1 of this chapter (Regulations on Procedure and Administration).

(2) *Amount of credit allowable when contributions are paid on or before last day for filing return.* Contributions paid into a State unemployment fund on or before the last day upon which the Federal return for the taxable year is required to be filed may be credited against the tax in an amount equal to such contributions, but not, however, to exceed the total credits, determined pursuant to § 31.3302(c)–1. For provisions relating to the time for filing the return, see § 31.6071(a)–1 in Subpart G of this part.

(3) *Amount of credit allowable when contributions are paid after last day for*