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the services are performed are immaterial; the test is the character of the organization in whose employ the services are performed.

[T.D. 6658, 28 FR 6639, June 27, 1963]

§ 31.3306(c)(10)–2 Services of student in employ of school, college, or university.

(a) *Services performed after 1961.* Services performed after 1961 in the employ of a school, college, or university, by a student who is enrolled and is regularly attending classes at the school, college, or university, are excepted from employment (whether or not the school, college, or university is exempt from income tax), if remuneration for the services is paid after 1961.

(b) *Services performed before 1962.* Services performed in the employ of a school, college, or university not exempt from income tax under section 501(a), by a student who is enrolled and is regularly attending classes at the school, college, or university, are excepted from employment if the services are performed before 1962 or if remuneration for the services is paid before 1962.

(c) *Application of section.* (1) For purposes of this section, the type of services performed by the employee, the place where the services are performed, and the amount of remuneration for services performed by the employee are immaterial; the tests are the character of the organization in the employ of which the services are performed and the status of the employee as a student enrolled and regularly attending classes at the school, college, or university, in the employ of which he performs the services.

(2) The status of the employee as a student performing the services shall be determined on the basis of the relationship of such employee with the organization for which the services are performed. An employee who performs services in the employ of a school, college, or university as an incident to and for the purpose of pursuing a course of study at such school, college, or university has the status of a student in the performance of such services.

(3) The term ''school, college, or university'' as used in this section is to be taken in its commonly or generally accepted sense.

(4) For provisions relating to services performed before 1962 by a student in the employ of an organization exempt from income tax, see paragraph (d) of § 31.3306(c)(10)–1.

[T.D. 6658, 28 FR 6640, June 27, 1963]

§ 31.3306(c)(10)–3 Services before 1962 in employ of certain employees' beneficiary associations.

(a) *Voluntary employees' beneficiary associations.* Services performed by an employee in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents are excepted from employment if—

(1) No part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual,

(2) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses, and

(3) The services are performed before 1962, or remuneration for the services is paid before 1962.

(b) *Federal employees' beneficiary associations.* Services performed by an employee in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries are excepted from employment if—

(1) Admission to membership in the association is limited to individuals who are officers or employees of the United States Government,

(2) No part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual, and

(3) The services are performed before 1962, or remuneration for the services is paid before 1962.

(c) *Application of tests.* For purposes of this section, the type of services performed by the employee, the amount of remuneration for the services, and the place where the services are performed

are immaterial; the test is the character of the organization in whose employ the services are performed.

[T.D. 6658, 28 FR 6640, June 27, 1963]

§ 31.3306(c)(11)–1 Services in employ of foreign government.

(a) Services performed by an employee in the employ of a foreign government are excepted from employment. The exception includes not only services performed by ambassadors, ministers, and other diplomatic officers and employees but also services performed as a consular or other officer or employee of a foreign government, or as a nondiplomatic representative thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial. It is also immaterial whether the foreign government grants an equivalent exemption with respect to similar services performed in the foreign country by citizens of the United States.

§ 31.3306(c)(12)–1 Services in employ of wholly owned instrumentality of foreign government.

(a) Services performed by an employee in the employ of certain instrumentalities of a foreign government are excepted from employment. The exception includes all services performed in the employ of an instrumentality of the government of a foreign country, if—

(1) The instrumentality is wholly owned by the foreign government;

(2) The services are of a character similar to those performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(3) The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial.

§ 31.3306(c)(13)–1 Services of student nurse or hospital intern.

(a) Services performed as a student nurse in the employ of a hospital or a nurses' training school are excepted from employment, if the student nurse is enrolled and regularly attending classes in a nurses' training school and such nurses' training school is chartered or approved pursuant to State law.

(b) Services performed as an intern (as distinguished from a resident doctor) in the employ of a hospital are excepted from employment, if the intern has completed a 4 years' course in a medical school chartered or approved pursuant to State law.

§ 31.3306(c)(14)–1 Services of insurance agent or solicitor.

(a) Services performed for a person by an employee as an insurance agent or insurance solicitor are excepted from employment, if all such services performed for such person by such individual are performed for remuneration solely by way of commission.

(b) If all or any part of the remuneration of an employee for services performed as an insurance agent or insurance solicitor for a person is a salary, none of his services performed as an insurance agent or insurance solicitor for such person are excepted from employment, and his total remuneration (for example, salary, or salary and commissions) for such services is included for purposes of computing the tax.

§ 31.3306(c)(15)–1 Services in delivery or distribution of newspapers, shopping news, or magazines.

(a) *Services of individuals under age 18.* Services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, are excepted from employment. Thus, the services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted. The services are excepted irrespective of the form or