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§ 31.3306(c)(3)–1 Services not in the course of employer's trade or business.

(a) Services not in the course of the employer's trade or business performed by an employe for an employer in a calendar quarter are excepted from employment unless—

(1) The cash remuneration paid for such services performed by the employee for the employer in the calendar quarter is $50 or more; and

(2) Such employee is regularly employed in the calendar quarter by such employer to perform such services.

Unless the tests set forth in both paragraphs (a)(1) and (2) of this section are met, the services are excepted from employment.

(b) The term ''services not in the course of the employer's trade or business'' includes services that do not promote or advance the trade or business of the employer. Services performed for a corporation do not come within the exception.

(c) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also required that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for services not in the course of the employer's trade or business, only cash remuneration for such services shall be taken into account. The term ''cash remuneration'' includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(d) For purposes of this exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if—

(1) Such individual performs services not in the course of the employer's trade or business for such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(2) Such individual was regularly employed (as determined under paragraph (d)(1) of this section) by such employer in the performance of services not in the course of the employer's trade or business during the preceding calender quarter (including the last calendar quarter of 1954).

(e) In determining whether an employee has performed services not in the course of the employer's trade or business on at least 24 days during a calendar quarter, there shall be counted as one day—

(1) Any day or portion thereof on which the employee actually performs such services; and

(2) Any day or portion thereof on which the employee does not perform services of the prescribed character but with respect to which cash remuneration is paid or payable to the employee for such services, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform services not in the course of the employer's trade or business shall be considered to be engaged in the actual performance of such services on that day. For purposes of this exception, a day is a period of 24 hours commencing at midnight and ending at midnight.

(f) For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, see § 31.3306(b) (7)–1.

§ 31.3306(c)(4)–1 Services on or in connection with a non-American vessel or aircraft.

(a) Services performed within the United States by an employee for an employer ''on or in connection with'' a vessel not an American vessel, or ''on or in connection with'' an aircraft not an American aircraft, are excepted from employment if the employee is employed by the employer ''on and in connection with'' the vessel or aircraft when outside the United States.

(b) An employee performs services on and in connection with the vessel or aircraft if he performs services on the

vessel or aircraft when outside the United States which are also in connection with the vessel or aircraft. Services performed on the vessel outside the United States by employees as officers or members of the crew, or by employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft outside the United States by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(c) The expression ''on or in connection with'' refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(d) The citizenship or residence of the employee and the place where the contract of service is entered into are immaterial for purposes of this exception, and the citizenship or residence of the person employing him is material only in case it has a bearing in determining whether the vessel is an American vessel. For definitions of the terms ''vessel'' and ''aircraft'', see paragraph (c)(2)(v) of §31.3306(c)–2. For definitions of the terms ''American vessel'' and ''American aircraft'', see §31.3306(m)–1.

(e) Since the only services performed outside the United States which constitute employment are those described in section 3306(c) and paragraph (c) of §31.3306(c)–2 (relating to services performed outside the United States on or in connection with an American vessel or American aircraft), services performed outside the United States on or in connection with a vessel not an American vessel, or an aircraft not an American aircraft, do not constitute employment in any event.

(f) The provisions of section 3306(c)(4) and of this section, insofar as they relate to services performed on or in connection with an aircraft not an American aircraft, apply only to services performed after 1961 for which remuneration is paid after 1961.

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§31.3306(c)(5)–1 Family employment.

(a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2) Services performed by a father or mother in the employ of his or her son or daughter; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a) (1) and (2) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a)(3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

(c) Services performed in the employ of a corporation are not within the exception. Services performed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

§31.3306(c)(6)–1 Services in employ of United States or instrumentality thereof.

(a) *Services in employ of United States or wholly-owned instrumentality thereof.* Services performed in the employ of the United States Government, except as provided in section 3306(n) (see §31.3306(n)–1), are excepted from employment. Services performed in the employ of an instrumentality of the