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United States which is wholly owned by the United States also are excepted from employment.

(b) *Services in employ of instrumentality not wholly owned by United States*—(1) *Services performed after 1961.* Services performed after 1961 in the employ of an instrumentality of the United States which is partially owned by the United States are excepted from employment, if the remuneration for such service is paid after 1961. Services performed after 1961 in the employ of an instrumentality of the United States which is neither wholly owned nor partially owned by the United States are excepted from employment if (i) the instrumentality is exempt from the tax imposed by section 3301 by virtue of any provision of law which specifically refers to section 3301 or the corresponding section of prior law in granting exemption from such tax, and (ii) the remuneration for such service is paid after 1961. For provisions which make general exemptions from Federal taxation ineffectual as to the tax imposed by section 3301, see § 31.3308–1.

(2) *Services performed before 1962.* Services performed in the employ of an instrumentality of the United States which is not wholly owned by the United States are excepted from employment if the instrumentality is exempt from the tax imposed by section 3301 by virtue of any other provision of law, and (i) the services are performed before 1962 or (ii) remuneration for the services is paid before 1962.

[T.D. 6658, 28 FR 6638, June 27, 1963]

§ 31.3306(c)(7)–1 Services in employ of States or their political subdivisions or instrumentalities.

(a) Services performed in the employ of any State, or of any political subdivision thereof, are excepted from employment. Services performed in the employ of an instrumentality of one or more States or political subdivisions thereof are excepted if the instrumentality is wholly owned by one or more of the foregoing. Services performed in the employ of an instrumentality of one or more of the several States or political subdivisions thereof which is not wholly owned by one or more of the foregoing are excepted only to the extent that the instrumentality is with respect to such services immune under the Constitution of the United States from the tax imposed by section 3301.

(b) For provisions relating to the term ''State'' see § 31.3306(j)–1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6658, 28 FR 6638, June 27, 1963]

§ 31.3306(c)(8)–1 Services in employ of religious, charitable, educational, or certain other organizations exempt from income tax.

(a) *Services performed after 1961.* Services performed by an employee after 1961 in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a) are excepted from employment, if the remuneration for such service is paid after 1961. For provisions relating to exemption from income tax of an organization described in section 501(c) (3), see Part 1 of this chapter (Income Tax Regulations).

(b) *Services performed before 1962.* (1) Services performed by an employee in the employ of an organization described in section 3306(c)(8) as in effect before 1962, that is, a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, are excepted from employment if (i) the services are performed before 1962, or (ii) remuneration for the services is paid before 1962.

(2) Any organization which is an organization of a type described in section 501(c)(3) and which—

(i) Is exempt from income tax under section 501(a), or

(ii) Has been denied exemption from income tax under section 501(a) by reason of the provisions of section 503 or 504, relating to prohibited transactions and to accumulations out of income, respectively,

is an organization of a type described in section 3306(c)(8) as in effect before 1962. An organization which would be an organization of a type described in section 501(c)(3) except for those provisions of section 501(c)(3) which are not contained in section 3306(c)(8) as in effect before 1962 (provisions relating to participation or intervention in a political campaign on behalf of a candidate for public office) is also an organization of a type described in section 3306(c)(8) as in effect before 1962.

[T.D. 6658, 28 FR 6638, June 27, 1963]

§ 31.3306(c)(9)–1 Railroad industry; services performed by an employee or an employee representative under the Railroad Unemployment Insurance Act.

(a) Services performed by an individual as an ''employee'' or as an ''employee representative'', as those terms are defined in section 1 of the Railroad Unemployment Insurance Act, as amended, are excepted from employment.

(b) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351), as amended, provides, in part, as follows:

For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) The term ''employer'' means any carrier (as defined in subsection (b) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term ''employer'' shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term ''employer'' shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term ''employer'' shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term ''carrier'' means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(c) The term ''company'' includes corporations, associations, and joint-stock companies.

(d) The term ''employee'' (except when used in phrases establishing a different meaning) means any individual who is or has been (i) in the service of one or more employers for compensation, or (ii) an employee representative. The term ''employee'' shall include an employee of a local lodge or division defined as an employer in section 1 (a) only if he was in the service of a carrier on or after August 29, 1935. The term ''employee'' includes an officer of an employer.

The term ''employee'' shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(e) An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders