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(d)(2)(ii)(*b*) of §1.61–2 in Part 1 of this chapter (Income Tax Regulations).

[T.D. 7493, 42 FR 33730, July 1, 1977]

§ 31.3401(a)(15)–1 Moving expenses.

(a) An amount paid to or on behalf of an employee after March 4, 1964, either as an advance or a reimbusement, specifically for moving expenses incurred or expected to be incurred is excepted from wages, and hence is not subject to withholding, if (and to the extent that) at the time of payment it is reasonable to believe that a corresponding deduction is or will be allowable to the employee under section 217. The reasonable belief contemplated by the statute may be based upon any evidence reasonably sufficient to induce such belief, even though such evidence may be insufficient upon closer examination by the district director or the courts finally to establish that a deduction is allowable under section 217. The reasonable belief shall be based upon the application of section 217 and the regulations thereunder in Part 1 of this chapter (Income Tax Regulations). When used in this section, the term ''moving expenses'' has the same meaning as when used in section 217. See §1.6041–2(a) in Part 1 of this chapter (Income Tax Regulations), relating to return of information as to payments to employees, and §31.6051–1(e), relating to the reporting of reimbursements of or payments of certain moving expenses.

(b) Except as otherwise provided in paragraph (a) of this section, or in a numbered paragraph of section 3401(a), amounts paid to or on behalf of an employee for moving expenses constitute wages subject to withholding.

[T.D. 7493, 42 FR 33730, July 1, 1977]

§ 31.3401(a)(16)–1 Tips.

Tips paid to an employee are excepted from wages and hence not subject to withholding if—

(a) The tips are paid in any medium other than cash, or

(b) The cash tips received by an employee in any calendar month in the course of his employment by an employer are less than $20.

However, if the cash tips received by an employee in a calendar month in the course of his employment by an employer amount to $20 or more, none of the cash tips received by the employee in such calendar month are excepted from wages under this section. The cash tips to which this section applies include checks and other monetary media of exchange. Tips received by an employee in any medium other than cash, such as passes, tickets, or other goods or commodities do not constitute wages. If an employee in any calendar month performs services for two or more employers and receives tips in the course of his employment by each employer, the $20 test is to be applied separately with respect to the cash tips received by the employee in respect of his services for each employer and not to the total cash tips received by the employee during the month. As to the time tips are deemed paid, see §31.3401(f)–1. For provisions relating to the treatment of tips received by an employee prior to 1966, see paragraph (b)(11) of §31.3401(a)–1.

[T.D. 7001, 34 FR 1001, Jan. 23, 1969]

§ 31.3401(a)(17)–1 Remuneration for services performed on a boat engaged in catching fish.

(a) Remuneration for services performed on or after December 31, 1954, by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter ''fish'') is excepted from wages and hence is not subject to withholding if—

(1) The individual receives a share of the boat's (or boats' for a fishing operation involved more than one boat) catch of fish or a share of the proceeds from the sale of the catch,

(2) The amount of the individual's share depends solely on the amount of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish,

(3) The individual does not receive, and is not entitled to receive, any cash remuneration, other than remuneration that is described in subparagraph (1) of this paragraph, and

(4) The crew of the boat (or of each boat from which the individual receives a share of the catch) normally is made up of fewer than 10 individuals.

(b) The requirement of paragraph (a)(2) of this section is not satisfied if