correct amount of the tax. Until collected from him, the employee is also liable for the employee tax. Any employee tax collected by or on behalf of an employer is a special fund in trust for the United States. See section 7501. An employer is not liable to any person for the amount of the employee tax deducted by him and paid to the district director.

(f) Concurrent employment. If two or more related corporations who are rail employers concurrently employ the same individual and compensate that individual through a common paymaster, which is one of the related corporations employing the individual, see §31.3121(s)–1.


§ 31.3211–1 Measure of employee representative tax.

The employee representative tax is measured by the amount of compensation received for services rendered as an employee representative. For provisions relating to compensation, see §31.3231(e)–1.


§ 31.3211–2 Rates and computation of employee representative tax.

(a) Rates—(1)(i) Tier 1 tax. The Tier 1 employee representative tax rate equals the sum of the tax rates in effect under sections 3101(a) and 3111(a), relating to the employee and the employer tax for old-age, survivors, and disability insurance, and sections 3101(b) and 3111(b), relating to the employee and the employer tax for hospital insurance. The Tier 1 employee representative tax rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i). The contribution base is determined under section 230 of the Social Security Act, and is identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.

(ii) Example. The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

Example. B, an employee representative, received compensation of $60,000 in 1992. The sections 3101(a) and 3111(a) rates of 12.4 percent (6.2 percent plus 6.2 percent) would be applied to B’s compensation up to $55,500, the applicable contribution base for 1992. The sections 3101(b) and 3111(b) rates of 2.9 percent (1.45 percent plus 1.45 percent) would be applied to the entire $60,000 of B’s compensation because the applicable contribution base for 1992 is $130,200.

(2) (i) Tier 2 tax. The Tier 2 employee representative tax rate equals the percentage set forth in section 3211(a)(2) of the Code. This rate is applied up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) Example. The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

Example. B received compensation of $60,000 in 1992. The section 3211(a)(2) rate of 14.75 percent would be applied to B’s compensation up to $41,400, the applicable contribution base for 1992.

(3) Supplemental Annuity Tax. The supplemental annuity tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative is imposed at the same rate as the excise tax imposed on every employer under section 3221(c). See also §31.3211–3.

(b) (1) Computation. The employee representative tax is computed by multiplying the amount of the employee representative’s compensation with respect to which the employee representative tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect when the compensation is received by the employee representative. For rules relating to the time of receipt, see §31.3121(a)–2 (a) and (b).

(2) Example. The rule in paragraph (b)(1) of this section is illustrated by the following example.

Example. In 1990, employee representative B received $1,000 as remuneration for services performed for employer R in 1989. The employee representative tax is payable at the rate of 30.05 percent (15.30 percent plus 14.75 percent) in effect for 1990 (the year the
compensation was received), and not the 29.77 percent rate (15.02 percent plus 14.75 percent) in effect for 1989 (the year the services were performed).

(c) (1) Rule where compensation is received both as an employee representative and employee. The following rule applies to an individual who renders service both as an employee representative and as an employee. The employee representative tax is imposed on compensation received as an employee representative under the rules described in §31.3221-2. The employee tax is imposed on compensation received as an employee under the rules described in §31.3201-2. However, if the total compensation received is greater than the applicable contribution base, the employee representative tax is imposed on the amount equal to the contribution base less the amount received for services rendered as an employee.

(2) Example. The rule in paragraph (c)(1) of this section is illustrated by the following example.

Example. C performed services both as an employee and an employee representative in 1992. C received compensation of $40,000 as an employee and $20,000 as an employee representative. C's entire compensation of $40,000 is subject to tax under the rules described in §31.3201-2. The amount of employee representative compensation subject to the section 3101(a) and the section 3111(a) rate is $15,500 ($40,000 - $24,500). The entire $20,000 is subject to the sections 3101(b) and 3111(b) rates since the combined compensation is less than $130,200, the applicable contribution base for 1992.


§31.3221-2 Rates and computation of employer tax.

(a) Rates—(1)(i) Tier 1 tax. The Tier 1 employer tax rate equals the sum of the tax rates in effect under section 3111(a), relating to old-age, survivors, and disability insurance, and section 3111(b), relating to hospital insurance. The Tier 1 employer tax rate is applied to compensation up to the contribution base described in section 3211(a)(2). The contribution base is determined under section 230 of the Social Security Act and is identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.


§31.3221-3 Employee representative supplemental tax.

See paragraphs (a), (b), and (c) of §31.3221-3 for rules applicable to the supplemental tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative.

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§31.3212-1 Determination of compensation.

See §31.3231(e)-1 for regulations applicable to compensation.