

§ 31.3306(b)(6)-1 Payment by an employer of employee tax under section 3101 or employee contributions under a State law.

The term “wages” does not include any payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of either (a) the employee tax imposed by section 3101 or the corresponding section of prior law, or (b) any payment required from an employee under a State unemployment compensation law.

§ 31.3306(b)(7)-1 Payments other than in cash for service not in the course of employer’s trade or business.

The term “wages” does not include remuneration paid in any medium other than cash for service not in the course of the employer’s trade or business. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, or other goods or commodities, for service not in the course of the employer’s trade or business does not constitute wages. Remuneration paid in any medium other than cash for other types of services does not come within this exclusion from wages. For provisions relating to the circumstances under which service not in the course of the employer’s trade or business does not constitute employment, see § 31.3306(c)(3)-1.

§ 31.3306(b)(8)-1 Payments to employees for non-work periods.

The term “wages” does not include any payment (other than vacation or sick pay) made by an employer to an employee after the calendar month in which the employee attains age 65, if—

(a) Such employee does no work (other than being subject to call for the performance of work) for such employer in the period for which such payment is made; and

(b) The employer-employee relationship exists between the employer and employee throughout the period for which such payment is made.

Vacation or sick pay is not within this exclusion from wages. If the employee does any work for the employer in the period for which the payment is made,

no remuneration paid by such employer to such employee with respect to such period is within this exclusion from wages. For example, if employee A, who attained the age of 65 in January 1955, is employed by the X Company on a stand-by basis and is paid \$200 by the X Company for being subject to call during the month of February 1955 and an additional \$25 for work performed for the X Company on one day in February 1955, then none of the \$225 is excluded from wages under this exception.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6708, 29 FR 3199, Mar. 10, 1964]

§ 31.3306(b)(9)-1 Moving expenses.

(a) The term “wages” does not include remuneration paid on or after November 1, 1964, to or on behalf of an employee, either as an advance or a reimbursement, specifically for moving expenses incurred or expected to be incurred, 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 and the regulations thereunder.

(b) Except as otherwise provided in paragraph (a) of this section, or in a numbered paragraph of section 3306(b), amounts paid to or on behalf of an employee for moving expenses are wages for purposes of section 3306(b).

[T.D. 7375, 40 FR 42351, Sept. 12, 1975]