

Internal Revenue Service, Treasury

§ 31.3306(c)(3)-1

to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment, see § 31.3306(d)-1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6658, 28 FR 6637, June 27, 1963]

§ 31.3306(c)(1)-1 Agricultural labor.

Services performed by an employee for the person employing him which constitute "agricultural labor" as defined in section 3306(k) are excepted from employment. For provisions relating to the definition of the term "agricultural labor", see § 31.3306(k)-1.

§ 31.3306(c)(2)-1 Domestic service.

(a) *In a private home.* (1) Services of a household nature performed by an employee in or about a private home of the person by whom he is employed are excepted from employment. A private home is a fixed place of abode of an individual or family. A separate and distinct dwelling unit maintained by an individual in an apartment house, hotel, or other similar establishment may constitute a private home. If a dwelling house is used primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, it is not a private home and the services performed therein are not excepted.

(2) In general, services of a household nature in or about a private home include services performed by cooks, waiters, butlers, housekeepers, governesses, maids, valets, baby sitters, janitors, laundresses, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobile for family use.

(b) *In a local college club or local chapter of a college fraternity or sorority.* (1) Services of a household nature performed by an employee in or about the club rooms or house of a local college club or of a local chapter of a college fraternity or sorority by which he is employed are excepted from employment. A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used

primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed therein are not within the exception.

(2) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(c) *Services not excepted.* Services not of a household nature, such as services performed as a private secretary, tutor, or librarian, even though performed in the employer's private home or in a local college club or local chapter of a college fraternity or sorority, are not within the exception. Services of a household nature are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.

§ 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 employee 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