

employee properly executes and delivers to the employer a statement that the employee meets or will meet the requirements of §1.911-2(a) relating to maintaining a tax home and being physically present in a foreign country for the taxable year. This statement must set forth the facts alleged as the basis for this determination and contain a declaration by the employee that the statement is made under the penalties of perjury. Sample forms of acceptable statements may be obtained by writing to the Foreign Operations District, Internal Revenue Service, Washington, D.C. 20225 (Form IO-673).

(4) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee's housing cost amount will be the amount shown on a statement properly executed and delivered to the employer. This statement must set forth the employee's estimation of the following items: housing expenses (as defined in §1.911-4(b)), the housing cost amount exclusion (as defined in §1.911-4(d)(1)), and the qualifying period (as defined in §1.911-2(a)). The statement must contain a declaration by the employer that it is made under the penalties of perjury. Sample forms of acceptable statements may be obtained by writing to the Foreign Operations District, Internal Revenue Service, Washington, D.C. 20225 (IO-673). The employer may not rely on a statement from an employee if the employer, based on his or her knowledge of housing costs in the vicinity of the employee's tax home (as defined in §1.911-2(b)), believes the employee's housing expenses are lavish or extravagant under the circumstances.

(b) *Remuneration subject to withholding of income tax under law of a foreign country or a possession of the United States.* (1) Remuneration paid for services performed in a foreign country or in a possession of the United States for an employer (other than the United States or any agency thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of the payment of such remuneration the employer is required by the law of any foreign country or of any possession of the United States to withhold income

tax upon such remuneration. This paragraph, insofar as it relates to remuneration paid for services performed in a possession of the United States, applies only with respect to remuneration paid on or after August 9, 1955.

(2) Remuneration is not exempt from withholding under this paragraph if the employer is not required by the law of a foreign country or of a possession of the United States to withhold income tax upon such remuneration. Mere agreements between the employer and the employee whereby the estimated income tax of a foreign country or of a possession of the United States is withheld from the remuneration in anticipation of actual liability under the law of such country or possession will not suffice.

(3) The exemption from withholding provided by this paragraph does not apply by reason of withholding of income tax pursuant to the law of a territory of the United States, of a political subdivision of a possession of the United States, or of a political subdivision of a foreign state.

(4) For provisions relating to remuneration for services performed by a permanent resident of the Virgin Islands, see paragraph (b)(12) of §31.3401(a)-1.

(c) *Limitation on application of section.* This section has no application to the remuneration paid to a citizen of the United States for services performed outside the United States as an employee of the United States or any agency thereof.

(Approved by the Office of Management and Budget under control number 1545-0067)

(Sec. 911, 95 Stat. 194; 26 U.S.C. 911, sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6697, 28 FR 13745, Dec. 17, 1963; T.D. 8006, 50 FR 2977, Jan. 23, 1985]

§ 31.3401(a)(8)(B)-1 Remuneration for services performed in possession of the United States (other than Puerto Rico) by citizen of the United States.

(a) Remuneration paid for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the

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United States (other than Puerto Rico) does not constitute wages and hence is not subject to withholding, if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services. The reasonable belief contemplated by section 3401(a)(8)(B) 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 at least 80 percent of the remuneration paid by the employer to the employee during the calendar year was for services performed within such a possession of the United States.

(b) This section has no application to remuneration paid to a citizen of the United States for services performed in any possession of the United States as an employee of the United States or any agency thereof.

(c) For provisions relating to remuneration for services performed by a permanent resident of the Virgin Islands, see paragraph (b)(12) of § 31.3401(a)-1.

§ 31.3401(a)(8)(C)-1 Remuneration for services performed in Puerto Rico by citizen of the United States.

(a) Remuneration paid for services performed within Puerto Rico for an employer (other than the United States or any agency thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico. The reasonable belief contemplated by section 3401(a)(8)(C) 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 the employee was a bona fide resident of Puerto Rico for the entire calendar year.

(b) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee will be a bona fide resident of Puerto Rico during the entire calendar year.

(1) Unless the employee is known by the employer to have maintained his abode at a place outside Puerto Rico at some time during the current or the preceding calendar year; or

(2) In any case where the employee files with the employer a statement (containing a declaration under the penalties of perjury that such statement is true to the best of the employee's knowledge and belief) that such employee has at all times during the current calendar year been a bona fide resident of Puerto Rico and that he intends to remain a bona fide resident of Puerto Rico during the entire remaining portion of such current calendar year.

(c) This section has no application to remuneration paid to a citizen of the United States for services performed in Puerto Rico as an employee of the United States or any agency thereof.

§ 31.3401(a)(9)-1 Remuneration for services performed by a minister of a church or a member of a religious order.

(a) *In general.* Remuneration paid for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, is excepted from wages and hence is not subject to withholding.

(b) *Service by a minister in the exercise of his ministry.* Except as provided in paragraph (c)(3) of this section, service performed by a minister in the exercise of his ministry includes the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination. The following rules are applicable in determining whether services performed by a minister are performed in the exercise of his ministry:

(1) Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular