§ 31.3306(c)(9)–1 Railroad industry; services performed by an employee or an employee representative under the Railroad Unemployment Insurance Act.

(a) Services performed by an individual as an “employee” or as an “employee representative”, as those terms are defined in section 1 of the Railroad Unemployment Insurance Act, as amended, are excepted from employment.

(b) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351), as amended, provides, in part, as follows:

For the purposes of this Act, except when used in amending the provisions of other Acts—
(a) The term “employer” means any carrier (as defined in subsection (b) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, that is in the possession of the property or operating all or any part of the business of any such employer: Provided, however, That the term “employer” shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term “employer” shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the

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Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supply of coal to an employer, where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(c) The term "company" includes corporations, associations, and joint-stock companies.

(d) The term "employee" (except when used in phrases establishing a different meaning) means any individual who is or has been (1) in the service of one or more employers for compensation, or (ii) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in section 1(a) only if he was in the service of a carrier on or after August 29, 1935. The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(e) An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: Provided, however, That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is rendering a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion of which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for the service no part of such remuneration shall be regarded as compensation.

Provided further, That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof.

(f) The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term employer as defined in section 1(a) who before or after August 29, 1935, was in the service of an employer as defined in section 1(a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

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(1) The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative: Provided, however, That in computing the compensation paid to any employee, no part of any month's compensation
§ 31.3306(c)(10)–1 Services in the employ of certain organizations exempt from income tax.

(a) In general. (1) This section deals with the exception from employment of certain services performed in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521. (See the provisions of §§ 1.401–1, 1.501(a)–1, and 1.521–1 of this chapter (Income Tax Regulations).) If the services meet the tests set forth in paragraphs (b), (c), (d), or (e) of this section, the services are excepted.

(2) See also § 31.3306(c)(8)–1 for provisions relating to the exception of services performed in the employ of religious, charitable, educational, or certain other organizations exempt from income tax; § 31.3306(c)(10)–2 for provisions relating to the exception of services performed by certain students in the employ of a school, college, or university; and § 31.3306(c)(10)–3 for provisions relating to the exception of services performed before 1962 in the employ of certain employees’ beneficiary associations.

(b) Remuneration less than $50 for calendar quarter. Services performed by an employee in a calendar quarter in the employ of an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 are excepted from employment, if the remuneration for the service is less than $50. The test relating to remuneration of $50 is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a...