

SS-8 Determination—Determination for Public Inspection

Occupation 02CON.2 Consultant/Advisor	Determination: <input type="checkbox"/> Employee <input checked="" type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

Facts of Case

The payer is an overseas post of the [REDACTED]. It is responsible to the [REDACTED] in [REDACTED] for pursuing a range of [REDACTED] interests in the western part of the [REDACTED]. Tourism [REDACTED] works independently under the aegis of the Consulate General, where they are responsible for ensuring that [REDACTED] is marketed as a competitive visitor destination. To operate in the [REDACTED], Tourism [REDACTED] is considered as an Annex of the Consulate General through their registration with the [REDACTED] State Department Office of Foreign Missions.

The worker was engaged by the payer through its [REDACTED] office as a trade development consultant to promote tourism and travel to [REDACTED].

Analysis

IRC §§ 3306(c)(11), (c)(12), and (c)(16):

Compensation for services performed as an employee of a foreign government, without regard to citizenship, residence, or where services are performed, is not considered to be wages for FUTA purposes. This includes services performed by ambassadors, other diplomatic and consular officers and employees, and non-diplomatic representatives. Compensation for services performed as an employee of a wholly owned instrumentality of a foreign government, without regard to citizenship, residence, or where services are performed is not considered to be wages for FUTA purposes if:

- The instrumentality is wholly owned by the foreign government;
- The services are of a character similar to those performed in foreign countries by employees of the [REDACTED] government or of an instrumentality thereof; and
- The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the [REDACTED] government and of instrumentalities thereof.

IRC § 3121(b)(11), (b)(12), and (b)(15)

Compensation for services performed as an employee of a foreign government, without regard to citizenship, residence, or where services are performed, is not considered to be wages for Social Security and Medicare tax purposes. This includes services performed by ambassadors, other diplomatic and consular officers and employees, and non-diplomatic representatives. Compensation for services performed as an employee of a wholly owned instrumentality of a foreign government, without regard to citizenship, residence, or where services are performed is not considered to be wages for Social Security/Medicare tax purposes if:

- The instrumentality is wholly owned by the foreign government;
- The services are of a character similar to those performed in foreign countries by employees of the [REDACTED] government or of an instrumentality thereof; and
- The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the [REDACTED] government and of instrumentalities thereof.

IRC § 1402(c)(2)

For [REDACTED] citizens, the income paid for services rendered to a foreign government is reportable as self-employment income on their [REDACTED] Federal income tax returns. It is subject to self-employment tax to the extent such services are performed within the [REDACTED].