§ 36.3121(l)(1)–2 Amendment of agreement.

(a) An agreement entered into by a domestic corporation as provided in § 36.3121(l)(1)–1 may be amended so as to be made applicable, in the same manner and under the same conditions, with respect to any one or more of the foreign subsidiaries of the domestic corporation not previously named in the agreement. See § 36.3121(l)(2)–1(b), relating to the effective period of an amendment of an agreement.

(b) Form 2032 Supplement is the form prescribed for use in amending an agreement entered into by a domestic corporation as provided in § 36.3121(l)(1)–1.

(c) A domestic corporation shall signify its desire to amend an agreement entered into by the corporation as provided in § 36.3121(l)(1)–1 by executing and filing Form 2032 Supplement in triplicate.

(d) Form 2032 Supplement shall be executed and filed in the manner and in conformity with the requirements prescribed in the instructions relating to such form and in § 36.3121(l)(1)–1(c) in respect of an agreement on Form 2032. Form 2032 Supplement executed and filed as provided in this paragraph shall be signed and dated by the district director or director of the service center, and, upon such signing, the Form 2032 Supplement so executed and filed will constitute an amendment of the agreement entered into on Form 2032. The Internal Revenue Service will return one copy of the amendment to the domestic corporation, will transmit one copy to the Department of Health, Education, and Welfare, and will retain one copy (together with all related papers).

[T.D. 6145, 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7012, 34 FR 7694, May 15, 1969]

§ 36.3121(l)(1)–3 Effect of agreement.

(a) *Liability for amounts equivalent to tax*—(1) *In general.* A domestic corporation which has entered into an agreement (as provided in § 36.3121(l)(1)–1, or any amendment thereof (as provided in § 36.3121(l)(1)–2, incurs liability under the agreement in respect of certain remuneration paid by each foreign subsidiary named in the agreement, or any amendment thereof. Liability is incurred in respect of the remuneration paid to all those employees of the foreign subsidiaries who are citizens of the United States and who perform services outside the United States (other than services which constitute employment) for the foreign subsidiaries. However, liability is incurred only with respect to that portion of such remuneration paid by the foreign subsidiary which is attributable to services performed during the period for which the agreement is in effect with respect to such subsidiary, and then only to the extent that the remuneration would constitute wages if the services to which the remuneration is attributable were performed in the United States. Liability with respect to such remuneration is incurred in an amount equivalent to the sum of the employee and employer taxes which would be imposed by sections 3101 and 3111, respectively, if such remuneration constituted wages. If an individual performs services for more than one of the foreign subsidiaries named in an agreement, including any amendment thereof, such services are regarded as being performed in the employ of a single employer for purposes of determining the amount of the remuneration for such services which would constitute wages if the services were performed in the United States. See § 36.3121(l)(9)–1, relating to the treatment of a domestic corporation as a separate entity in its capacity as a party to an agreement.

(2) *Examples.* The application of paragraph (a)(1) of this section may be illustrated by the following examples:

Example 1. P. a domestic corporation, has entered into an agreement as provided in § 36.3121(l)(1)–1, effective with respect to services performed on and after January 1, 1955. Three foreign subsidiaries, S–1, S–2, and S–3 are named in the agreement. A, a citizen of the United States, is employed during 1955 by S–1, S–2, and S–3, for the performance outside the United States of services covered by the agreement. In 1955 A is paid remuneration of $2,500 for such services by each of the foreign subsidiaries. The circumstances are such that the entire $7,500 would constitute wages if the services has been performed in the United States. However, only $4,200 of such remuneration would constitute wages if the services had been performed in the United States for a single employer, and