

IR Code: Definitions; Employee-Employer-Wages

First, we must look at a couple of class/subclass distinctions in tax-law areas of widest interest-- those between "wages" relevant to the tax and the general class 'wages' as the word is commonly-defined. In order to help cement the distinctions in mind, graphic aids will be used.

These images should assist greatly in communicating the true nature of the subclasses, and as a serendipity, serve to illustrate the effect of the "includes" rule of construction, as well.

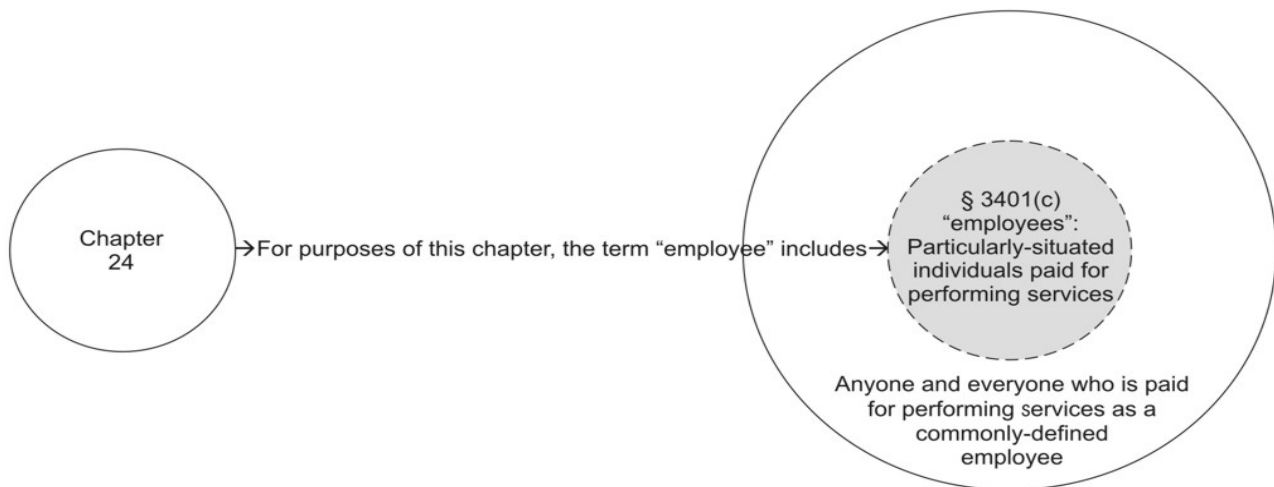
First, let's look at the basic division between ALL wages (pay for labor, generically called "income") and the two "wage" subclasses relevant to the "federal" income tax. We'll start with the "wages" distinguished for purposes of Chapter 24, which are themselves dependent in that distinction on the statutory distinction between commonly-defined employees and "chapter 24 employees."

26 USC § 3401(c) Employee

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.*

(*This only means an officer who is paid for services rendered, and not someone with merely an unpaid directorial position-- see IRS pub. 15A. Also, the corporations covered are only "United States corporations")

The graphic representation of the distinction between common employees and chapter 24 statutory "employees" (the class of workers subject to the provisions of the chapter) is seen in the following diagram:*



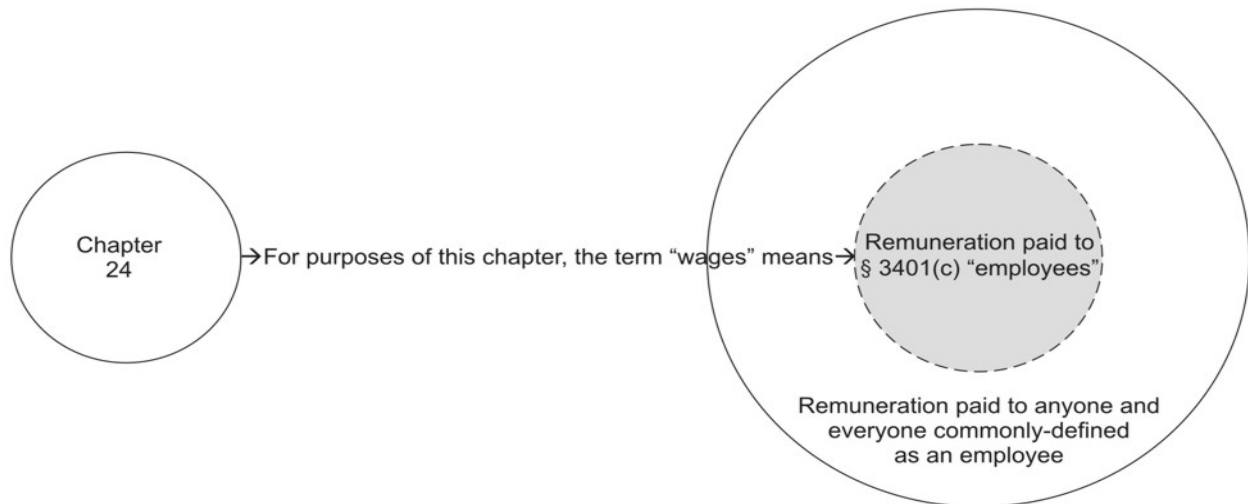
It is clear that the workers who qualify as "employees" for purposes of the chapter and its provisions are a subclass from among the larger generic class of ALL employees, and not the class of all employees itself (not only would this be unconstitutional, but there would be no point in distinguishing chapter 24 "employees" by a statutory definition...).

Now looking at the definition of "wages" as used in chapter 24, we find another distinction drawn:

26 USC § 3401(a) Wages

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee [defined, for purposes of this chapter, as shown above]...

Here is the graphic representation of this distinction and relationship:**



All told, then, we see that "wages" as meant in chapter 24 (the remuneration subject to that chapter's withholding provisions, and also serving as measure of taxable activity subject to the normal "subtitle A" federal income tax) is only what is paid to statutorily-distinguished "employees"-- a subclass of the greater class of ALL employees (and thus, plainly NOT "all employees").

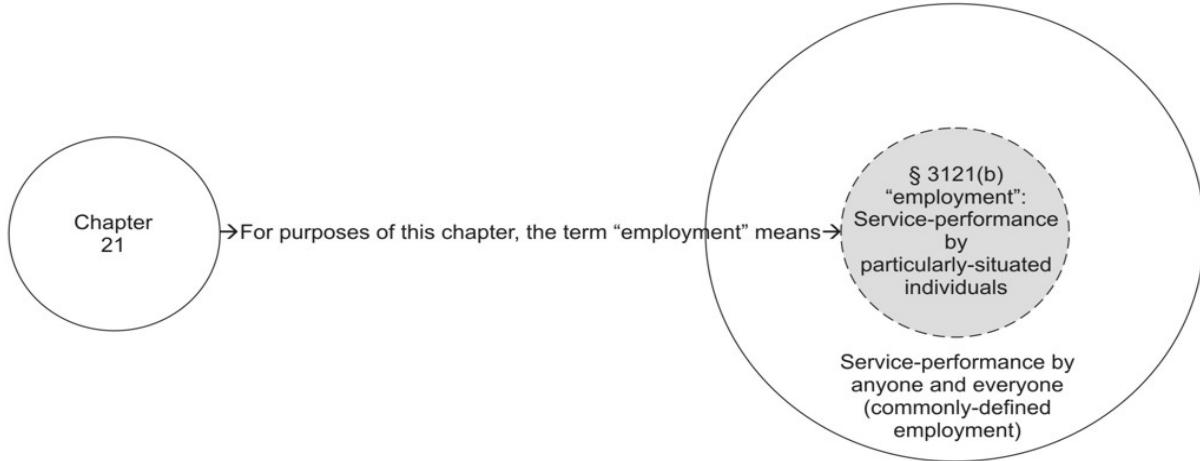
Now, turning to chapter 21 "wages", we have to again first look at a primary distinction drawn in the law-- this time between commonly-defined 'employment' and statutorily-defined "employment:"

26 USC § 3121(b) Employment

For purposes of this chapter, the term "employment" means any service, of whatever nature, performed by [a long, involved series of distinguished individuals, deploying dependencies

resting on other dependencies]...

The graphic representation of this subclass distinguished from the class of ALL employment looks like this:***



Turning to the "wages" definition for chapter 21, we find the statutorily-distinguished "employment" subclass invoked:

26 USC § 3121(a) Wages

“For purposes of this chapter, the term "wages" means all remuneration for employment...”

Again, looking at the graphic representation, we clearly see that "wages" to which the FICA sur-taxes apply are merely a subclass of all wages:****

