

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8771]

RIN 1545-AW29

Federal Employment Tax Deposits--De Minimis Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the deposit of Federal employment taxes. The regulations change the de minimis deposit rule for quarterly and annual return periods. The regulations affect taxpayers required to make deposits of Federal employment taxes. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: Effective date: These regulations are effective June 16, 1998.

Applicability date: For dates of applicability, see §31.6302-1T(f)(4).

FOR FURTHER INFORMATION CONTACT: Vincent Surabian (202) 622-4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 31, Employment Taxes and Collection of Income Tax at Source. Section 31.6302-1(f)(4) provides that if the total amount of accumulated employment taxes for the quarter is less than \$500 and the amount is fully deposited or remitted with a timely filed return for the quarter, the amount deposited or remitted will be deemed to be timely deposited.

The temporary regulations change the \$500 threshold to \$1,000. In addition, the regulations replace the term "quarter" with the term "return period" since some employment taxes are reported on an annual basis (Forms 943, 945, and CT-1) rather than quarterly (Form 941). Thus, a taxpayer that has accumulated employment taxes of less than \$1,000 for a return period (quarterly or annual, as the case may be) does not have to make deposits but may remit its full liability with a timely filed return for the return period.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5

U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Vincent Surabian, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31--EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

§31.6302-1T also issued under 26 U.S.C. 6302(a) and (c).

* * *

Par. 2. In §31.6302-1, a new sentence is added at the end of paragraph (f)(4) to read as follows:

§31.6302-1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(4) De Minimis rule. * * * For guidance regarding de minimis amounts for quarterly return periods beginning on or after July 1, 1998, and annual return periods beginning on or after January 1, 1999, see §31.6302-1T(f)(4).

* * * * *

Par. 3. Section 31.6302-1T is added to read as follows:
§31.6302-1T Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992 (temporary).

(a) through (f)(3). [Reserved] For further guidance, see §31.6302-1(a) through (f)(3).

(f)(4) De Minimis rule. For quarterly return periods beginning on or after July 1, 1998, and annual return periods beginning on or after January 1, 1999, if the total amount of accumulated employment taxes for the return period is less than \$1,000 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

(f)(5) through (m). [Reserved] For further guidance, see §31.6302-1(f)(5) through (m).

Deputy Commissioner of Internal Revenue

Approved:

Assistant Secretary of the Treasury