

*Example (3).* [The text of the proposed amendments to § 1.954–3(b)(4) *Example 3* is the same as the text of § 1.954–3T(b)(4) *Example 3* published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

*Example 8.* [The text of the proposed amendments to § 1.954–3(b)(4) *Example 8* is the same as the text of § 1.954–3T *Example 8* published elsewhere in this issue of the **Federal Register**.]

*Example 9.* [The text of the proposed amendments to § 1.954–3(b)(4) *Example 9* is the same as the text of § 1.954–3T *Example 9* published elsewhere in this issue of the **Federal Register**.]

(e) [The text of the proposed amendments to § 1.954–3(e) is the same as the text of § 1.954–3T(e) published elsewhere in this issue of the **Federal Register**.]

(f) [The text of the proposed amendments to § 1.954–3(f) is the same as the text of § 1.954–3T(f) published elsewhere in this issue of the **Federal Register**.]

(g) [The text of the proposed amendments to § 1.954–3(g) is the same as the text of § 1.954–3T(g) published elsewhere in this issue of the **Federal Register**.]

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 31

[REG–148568–04]

RIN 1545–BD93

### Employer’s Annual Federal Tax Return and Modifications to the Deposit Rules

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document revises the notice of proposed rulemaking published in the **Federal Register** on January 3, 2006. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the annual filing of Federal employment tax returns and requirements for employment tax deposits under sections 6011 and 6302 of the Internal Revenue Code (Code). Those temporary regulations generally allow certain

employers to file a Form 944, “Employer’s ANNUAL Federal Tax Return,” rather than Form 941, “Employer’s QUARTERLY Federal Tax Return.” In addition to rules related to Form 944, those temporary regulations provide an additional method for employers who file Form 941 to determine whether the amount of accumulated employment taxes is considered de minimis. The temporary and proposed regulations affect taxpayers that file Form 941, “Employer’s QUARTERLY Federal Tax Return,” Form 944, “Employer’s ANNUAL Federal Tax Return,” and any related Spanish-language returns or returns for U.S. possessions. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by March 30, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–148568–04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–148568–04), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–148568–04).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Audra M. Dineen at (202) 622–4910; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor of the Publications and Regulations Branch at (202) 622–7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) under section 6011 relating to the federal employment tax return filing requirements and section 6302 relating to the employment tax deposit requirements. The regulations concern the reporting and paying of income taxes withheld from wages and taxes under the Federal Insurance Contributions Act (FICA). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these

proposed regulations. The temporary and proposed regulations are part of the IRS’s effort to reduce taxpayer burden by permitting certain employers to file one return annually to report their employment tax liabilities instead of four quarterly returns.

#### Proposed Effective/Applicability Date

The regulations, as proposed, will apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 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.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The regulations under sections 6011 and 6302 affect only a small number of taxpayers that file employment tax returns. Therefore, the Treasury Department and the IRS have determined that these regulations will not affect a substantial number of small entities. In addition, the Treasury Department and the IRS have determined that any impact on entities affected by the regulations will not be significant. The regulations merely allow certain employers to file their employment tax return annually rather than quarterly. Therefore, these regulations will reduce the burden on these employers, by reducing the number of returns they must file each year. Based on these facts, the IRS has determined that these regulations will not have a significant economic impact on a substantial number of small entities. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the substance of the

proposed regulations, as well as on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal authors of these final regulations are Raymond Bailey and Audra M. Dineen of the Office of the Associate Chief Counsel (Procedure and Administration).

**List of Subjects 26 CFR Part 31**

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

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

**PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE**

**Paragraph. 1.** The authority citation for part 31 continues to read in part as follows:

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

**Par. 2.** Section 31.6011(a)–1, which was proposed to be amended at 71 FR 46 on January 3, 2006, is further amended by revising paragraph (a)(1) and paragraph (a)(5) and adding paragraph (g) to read as follows:

**§ 31.6011(a)–1 Returns under Federal Insurance Contributions Act.**

(a) \* \* \* (1) [The text of proposed § 31.6011(a)–1(a)(1) is the same as the text of § 31.6011(a)–1T(a)(1) published elsewhere in this issue of the **Federal Register**].

(5) [The text of proposed § 31.6011(a)–1(a)(5) is the same as the text of § 31.6011(a)–1T(a)(5) published elsewhere in this issue of the **Federal Register**].

(g) [The text of proposed § 31.6011(a)–1(g) is the same as the text of § 31.6011(a)–1T(g) published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 31.6011(a)–4, which was proposed to be amended at 71 FR 46 (January 3, 2006), is further amended by revising paragraphs (a)(1) and (a)(4)

and adding paragraph (d) to read as follows:

**§ 31.6011(a)–4 Returns of income tax withheld.**

(a) \* \* \* (1) [The text of proposed § 31.6011(a)–4(a)(1) is the same as the text of § 31.6011(a)–4T(a)(1) published elsewhere in this issue of the **Federal Register**].

(4) [The text of proposed § 31.6011(a)–4(a)(4) is the same as the text of § 31.6011(a)–4T(a)(4) published elsewhere in this issue of the **Federal Register**].

(d) [The text of proposed § 31.6011(a)–4(d) is the same as the text of § 31.6011(a)–4T(d) published elsewhere in this issue of the **Federal Register**].

**Par. 4.** Section 31.6302–0 is amended by revising the entries for § 31.6302–1(f)(4)(i), (g)(1) and (n) to read as follows:

**§ 31.6302–0 Table of contents.**

**§ 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.**

(f) \* \* \* (4) \* \* \* (i) [The text of the proposed entry for § 31.6302–1(f)(4)(i) is the same as the text of the entry for § 31.6302–1T(f)(4)(i) published elsewhere in this issue of the **Federal Register**].

(g) \* \* \* (1) [The text of the proposed entry for § 31.6302–1(g)(1) is the same as the text of the entry for § 31.6302–1T(g)(1) published elsewhere in this issue of the **Federal Register**].

(n) [The text of the proposed entry for § 31.6302–1(n) is the same as the text of the entry for § 31.6302–1T(n) published elsewhere in this issue of the **Federal Register**].

**Par. 5.** Section 31.6302–1, which was proposed to be amended at 71 FR 46 on January 3, 2006, is further amended by revising paragraphs (b)(4), (c)(5), (c)(6), (d) *Example 6*, (e)(2), (f)(4), (f)(5) *Example 3*, (g)(1) and (n) 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.**

(b) \* \* \* (4) [The text of proposed § 31.6302–1(b)(4) is the same as the text of § 31.6302–1T(b)(4) published elsewhere in this issue of the **Federal Register**].

(c) \* \* \* (5) [The text of proposed § 31.6302–1(c)(5) is the same as the text of § 31.6302–1T(c)(5) published elsewhere in this issue of the **Federal Register**].

(6) [The text of proposed § 31.6302–1(c)(6) is the same as the text of § 31.6302–1T(c)(6) published elsewhere in this issue of the **Federal Register**].

(d) \* \* \* *Example 6.* [The text of proposed § 31.6302–1(d) *Example 6* is the same as the text of § 31.6302–1T(d) *Example 6* published elsewhere in this issue of the **Federal Register**].

(e) \* \* \* (2) [The text of proposed § 31.6302–1(e)(2) is the same as the text of § 31.6302–1T(e)(2) published elsewhere in this issue of the **Federal Register**].

(f) \* \* \* (4) [The text of proposed § 31.6302–1(f)(4) is the same as the text of § 31.6302–1T(f)(4) published elsewhere in this issue of the **Federal Register**].

(5) \* \* \* *Example 3.* [The text of proposed § 31.6302–1(f)(5) *Example 3* is the same as the text of § 31.6302–1T(f)(5) *Example 3* published elsewhere in this issue of the **Federal Register**].

(g) \* \* \* (1) [The text of proposed § 31.6302–1(g)(1) is the same as the text of § 31.6302–1T(g)(1) published elsewhere in this issue of the **Federal Register**].

(n) [The text of proposed § 31.6302–1(n) is the same as the text of § 31.6302–1T(n)(1) published elsewhere in this issue of the **Federal Register**].

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 251**

**RIN 0596–AC87**

**Management of National Forest System Surface Resources With Privately Held Mineral Estates**

**AGENCY:** Forest Service, USDA.