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to apply and the remuneration to which it relates, shall be signed by the employee, and shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. No particular form is prescribed for this statement. The duplicate copy of each statement filed during any calendar year pursuant to this paragraph shall be forwarded by the employer with, and attached to, the Form 1042S required by paragraph (c) of §1.1461–2 with respect to such remuneration for such calendar year.

(f) *Exemption from income tax for remuneration paid for services performed after December 31, 2000.* Remuneration paid for services performed within the United States by a nonresident alien individual after December 31, 2000, is excepted from wages and hence is not subject to withholding if such remuneration is, or will be, exempt from the income tax imposed by chapter 1 of the Internal Revenue Code by reason of a provision of the Internal Revenue Code or an income tax convention to which the United States is a party. An employer may rely on a claim that the employee is entitled to an exemption from tax if it complies with the requirements of §1.1441–1(e)(1)(ii) of this chapter (for a claim based on a provision of the Internal Revenue Code) or §1.1441–4(b)(2) of this chapter (for a claim based on an income tax convention).

[T.D. 6908, 31 FR 16775, Dec. 31, 1966, as amended by T.D. 7670, 45 FR 6932, Jan. 31, 1980; T.D. 7977, 49 FR 36836, Sept. 20, 1984; T.D. 8734, 62 FR 53493, Oct. 14, 1997; T.D. 8804, 63 FR 72189, Dec. 31, 1998; T.D. 8856, 64 FR 73412, Dec. 30, 1999]

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53493, Oct. 14, 1997, §31.3401(a)(6)–1 was amended by revising the section heading; revising the paragraph heading and first sentence of paragraph (e); adding paragraph (f); and removing the authority citation at the end of the section, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000, and paragraph (e) heading and first sentence were amended by removing ''January 1, 1999'' and adding ''January 1, 2000'', and in paragraph (f) heading and first sentence, by removing ''December 31, 1998'' and adding ''December 31, 1999'', effective Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001, and paragraph (e) heading and first sentence were amended by removing ''January 1, 2000'' and adding ''January 1, 2001'', and in paragraph (f) heading and first sentence, by removing ''December 31, 1999'' and adding ''December 31, 2000'', effective Jan. 1, 2001. For the convenience of the user, the superseded text is set forth as follows:

§ 31.3401(a)(6)–1 Remuneration for services of nonresident alien individuals paid after December 31, 1966.

* * * * *

(e) *Income exempt from income tax.* Remuneration paid for services performed within the United States by a nonresident alien individual is excepted from wages and hence is not subject to withholding if such remuneration is, or will be, exempt from the income tax imposed by chapter 1 of the Code by reason of a provision of the Internal Revenue Code or an income tax convention to which the United States is a party. * * *

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(Secs. 1441(c)(4) (80 Stat. 1553; 26 U.S.C. 1441(c)(4)), 3401(a)(6) (80 Stat. 1554; 26 U.S.C. 3401(a)(6)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

§ 31.3401(a)(6)–1A Remuneration for services of certain nonresident alien individuals paid before January 1, 1967.

(a) Except in the case of certain nonresident alien individuals who are residents of Canada, Mexico, or Puerto Rico or individuals who are temporarily present in the United States as nonimmigrants under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101), as amended, remuneration for services performed by nonresident alien individuals does not constitute wages subject to withholding under section 3402. For withholding of income tax on remuneration paid for services performed within the United States in the case of nonresident alien individuals generally, see §1.1441–1 and following of this chapter (Income Tax Regulations).

(b) Remuneration paid to nonresident aliens who are residents of a contiguous country (Canada or Mexico) and who enter and leave the United States at frequent intervals is not excepted from wages under section 3401(a)(6). See, however, §31.3401(a)(7)–1, relating