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and returning the tax and furnishing such statements rests with the employer. For provisions relating to statements under section 6051, see §31.6051–1.

(f) The amount of any tax withheld and collected by the employer is a special fund in trust for the United States. See section 7501.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7001, 34 FR 1001, Jan. 23, 1969; T.D. 7115, 36 FR 9209, May 21, 1971; T.D. 7888, 48 FR 17588, Apr. 25, 1983]

§31.3402(b)–1 Percentage method of withholding.

With respect to wages paid after April 30, 1975, the amount of tax to be deducted and withheld under the percentage method of withholding shall be determined under the applicable percentage method withholding table contained in Circular E (Employer's Tax Guide) according to the instructions contained therein.

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and (m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))

[T.D. 7915, 48 FR 44073, Sept. 27, 1983]

§31.3402(c)–1 Wage bracket withholding.

(a) *In general.* (1) The employer may elect to use the wage bracket method provided in section 3402(c) instead of the percentage method with respect to any employee. The tax computed under the wage bracket method shall be in lieu of the tax required to be deducted and withheld under section 3402(a). With respect to wages paid after July 13, 1968, the correct amount of withholding shall be determined under the applicable wage bracket withholding table contained in the Circular E (Employer's Tax Guide) issued for use with respect to the period in which such wages are paid.

(2) For provisions relating to the treatment of wages paid under accident and health plans and wages paid other than in cash to retail commission salesmen, see paragraph (b)(8) of §31.3401(a)–1 and §31.3402(j)–1, respectively.

(b) *Established payroll periods, other than daily or miscellaneous, covered by wage bracket withholding tables.* The wage bracket withholding tables contained in Circular E for established periods other than daily or miscellaneous should be used in determining the tax to be withheld for any such period without reference to the time the employee is actually engaged in the performance of services during such payroll period.

Example 1. On June 30, 1971, employee A is paid wages for a semimonthly payroll period. A has in effect a withholding exemption certificate indicating that he claims two withholding exemptions and that he is married. A's wages are determined at the rate of $2 per hour. During a certain payroll period he works only 24 hours and earns $48. Although A worked only 24 hours during the semimonthly payroll period, the applicable wage bracket withholding table contained in Circular E for a semimonthly payroll period for an employee who is married should be used in determining the tax to be withheld. Under this table it will be found that no tax is required to be withheld from a wage payment of $48 when two withholding exemptions are claimed.

Example 2. On May 14, 1971, employee B is paid wages for a weekly payroll period. B has in effect a withholding exemption certification indicating that he claims one withholding exemption and that he is single. B's wages are determined at the rate of $2 per hour. During a certain payroll period B works 18 hours and earns $36. Although B worked only 18 hours during the weekly payroll period the applicable wage bracket withholding table for a weekly payroll period for an employee who is single should be used in determining the tax to be withheld. Under this table it will be found that $0.50 is the amount of tax to be withheld from a wage payment of $36 when one withholding exemption is claimed.

(c) *Periods to which the tables for a daily or miscellaneous payroll period are applicable*—(1) *In general.* The tables applicable to a daily or miscellaneous payroll period show the tax for employees who are to be withheld from as single persons and for employees who are to be withheld from as married persons on the amount of wages for one day. Where the withholding is computed under the rules applicable to a miscellaneous payroll period, the wages and the amounts shown in the applicable table must be placed on a comparable basis. This may be accomplished by reducing the wages paid for the period to a daily basis by dividing