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Example 2. An employee works for a certain employer on 4 consecutive days for which he is paid wages totalling $60 on July 25, 1971. The employee has in effect a withholding exemption certificate claiming two withholding exemptions and indicating that he is married. The amount of tax to be deducted and withheld under the wage bracket method is $5.60 (4×$1.40).

(2) If the payroll period, other period or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, under certain conditions, elect to deduct and withhold the tax determined by the application of the wage table for a weekly payroll period to the aggregate of the wages paid to the employee during the calendar week. The election to use the weekly wage table in such cases is subject to the limitations and conditions prescribed in Circular E with respect to employers using the percentage method in similar cases.

(3) As used in this paragraph the term ''calendar week'' means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(e) *Rounding off of wage payment.* In determining the amount to be deducted and withheld under the wage bracket method the wages may, at the election of the employer, be computed to the nearest dollar, provided such wages are in excess of the highest wage bracket of the applicable table. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1.00. Thus, if the payroll period of an employee is weekly and the wage payment of such employee is $255.49, the employer may compute the tax on the excess over $200 as if the excess were $55 instead of $55.49. If the weekly wage payment is $255.50, the employer may, in computing the tax, consider the excess over $200 to be $56 instead of $55.50.

(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. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6860, 30 FR 13942, Nov. 4, 1965; T.D. 7115, 36 FR 9215, May 21, 1971; T.D. 7888, 48 FR 17588, Apr. 25, 1983; T.D. 7915, 48 FR 44073, Sept. 27, 1983]

§ 31.3402(d)–1 Failure to withhold.

If the employer in violation of the provisions of section 3402 fails to deduct and withhold the tax, and thereafter the income tax against which the tax under section 3402 may be credited is paid, the tax under section 3402 shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties or additions to the tax applicable in respect of such failure to deduct and withhold. The employer will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under section 3402 may be credited has been paid. See § 31.3403–1, relating to liability for tax.

§ 31.3402(e)–1 Included and excluded wages.

(a) If a portion of the remuneration paid by an employer to his employee for services performed during a payroll period of not more than 31 consecutive days constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under section 3401(a) constitutes wages, and the time during which he performs services, the remuneration for which under such section does not constitute wages, determine whether all the remuneration for services performed during the payroll period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular employer in a payroll period is spent in performing services the remuneration for which consititutes wages, then all

the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

(c) If less than one-half of the employee's time in the employ of a particular employer in a payroll period is spent in performing services the remuneration for which constitutes wages, then none of the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

(d) The application of the provisions of paragraphs (a), (b), and (c) of this section may be illustrated by the following examples:

Example 1. Employer B, who operates a store and a farm, employs A to perform services in connection with both operations. The remuneration paid A for services on the farm is excepted as remuneration for agricultural labor, and the remuneration for services performed in the store constitutes wages. Employee A is paid on a monthly basis. During a particular month, A works 120 hours on the farm and 80 hours in the store. None of the remuneration paid by B to A for services performed during the month is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the month constitutes wages. During another month A works 75 hours on the farm and 120 hours in the store. All of the remuneration paid by B to A for services performed during the month is deemed to be wages since the remuneration paid for one-half or more of the services performed during the month constitutes wages.

Example 2. Employee C is employed as a maid by D, a physician, whose home and office are located in the same building. The remuneration paid C for services in the home is excepted as remuneration for domestic service, and the remuneration paid for her services in the office constitutes wages. C is paid on a weekly basis. During a particular week C works 20 hours in the home and 20 hours in the office. All of the remuneration paid by D to C for services performed during that week is deemed to be wages, since the remuneration paid for one-half or more of the services performed during the week constitutes wages. During another week C works 22 hours in the home and 15 hours in the office. None of the remuneration paid by D to C for services performed during that week is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the week constitutes wages.

(e) The rules set forth in this section do not apply (1) with respect to any remuneration paid for services performed by an employee for his employer if the periods for which remuneration is paid by the employer vary to the extent that there is no period which constitutes a payroll period within the meaning of section 3401(b) (see § 31.3401(b)–1), or (2) with respect to any remuneration paid for services performed by an employee for his employer if the payroll period for which remuneration is paid exceeds 31 consecutive days. In any such case withholding is required with respect to that portion of such remuneration which constitutes wages.

§ 31.3402(f)(1)–1 Withholding exemptions.

(a) *In general.* (1) Except as otherwise provided in section 3402(f)(6) (see § 31.3402(f)(6)–1), an employee receiving wages shall on any day be entitled to withholding exemptions as provided in section 3402(f)(1). In order to receive the benefit of such exemptions, the employee must file with his employer a withholding exemption certificate as provided in section 3402(f)(2). See § 31.3402(f)(2)–1.

(2) The number of exemptions to which an employee is entitled on any day depends upon his status as single or married, upon his status as to old age and blindness, upon the number of his dependents, upon the number of exemptions claimed by his spouse (if he is married), and upon the number of withholding allowances to which he is entitled under section 3402(m).

(b) *Withholding exemptions to which an employee is entitled in respect of himself.* An employee is entitled to one withholding exemption for himself. An employee shall on any day be entitled to an additional withholding exemption for himself if he will have attained the age of 65 before the close of his taxable year which begins in, or with, the calendar year in which such day falls. If the employee is blind, he may claim an additional withholding exemption for blindness. For purposes of claiming a withholding exemption for blindness, an individual shall be considered blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of