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§31.6001–6 Notice by district director requiring returns, statements, or the keeping of records.

The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for any of the taxes to which the regulations in this part have application.

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

(a) *Requirement*—(1) *In general.* Except as otherwise provided in §31.6011 (a)–5, every employer required to make a return under the Federal Insurance Contributions Act, as in effect prior to 1955, for the calendar quarter ended December 31, 1954, in respect of wages other than wages for agricultural labor, shall make a return for each subsequent calendar quarter (whether or not wages are paid in such quarter) until he has filed a final return in accordance with §31.6011(a)–6. Except as otherwise provided in §31.6011(a)–5, every employer not required to make a return for the calendar quarter ended December 31, 1954, shall make a return for the first calendar quarter thereafter in which he pays wages, other than wages for agricultural labor, subject to the tax imposed by the Federal Insurance Contributions Act as in effect after 1954, and shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with §31.6011(a)–6. Except as otherwise provided in §31.6011 (a)–8 and in subparagraphs (3) and (4) of this paragraph, Form 941 is the form prescribed for making the return required by this subparagraph. Such return shall not include wages for agricultural labor required to be reported on any return prescribed by subparagraph (2) of this paragraph. The return shall include wages received by an employee in the form of tips only to the extent of the tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a).

(2) *Employers of agricultural workers*—(i) *Quarterly returns for 1955.* Every employer who, at any time before October 1 of the calendar year 1955, incurs liability of $100 or more for the taxes imposed by the Federal Insurance Contributions Act with respect to wages paid in such year for agricultural labor shall make a return—

(a) For the first calendar quarter of such year if the liability for such taxes incurred in such quarter is $100 or more,

(b) For the period consisting of the first and second calendar quarters of such year if the liability for such taxes incurred in those quarters totals $100 or more, except that such return shall be made only for the second calendar quarter if a return was required under *(a)* of this subdivision and if the liability for such taxes incurred in the second calendar quarter is $100 or more, and

(c) For the period consisting of the first, second, and third calendar quarters of such year if the liability for such taxes incurred in those quarters totals $100 or more, except that such return shall be made *(1)* only for the period consisting of the second and third calendar quarters if a return was required under *(a)* of this subdivision but not under *(b)* of this subdivision, and if the total liability for such taxes incurred in the second and third calendar quarters totals $100 or more; or *(2)* only for the third calendar quarter if a return was required under *(b)* of this subdivision, and if the liability for such taxes incurred in the third calendar quarter is $100 or more.

Form 943A is the form prescribed for making the return required by this subdivision, except that, if the return is required to be filed with the office of the United States Internal Revenue Service in Puerto Rico, the return shall be made on Form 943A–PR if the Internal Revenue Service furnishes Form 943A–PR to the employer for use in lieu of Form 943A (see §31.6091–1).

(ii) *Annual returns for 1955 and subsequent years.* Every employer who pays wages after 1954 for agricultural labor with respect to which taxes are imposed by the Federal Insurance Contributions Act shall make a return for the first calendar year in which he pays such wages and for each calendar year thereafter (whether or not wages

are paid therein) until he has filed a final return in accordance with §31.6011(a)–6. Form 943 is the form prescribed for making the annual return required by this subdivision, except that, if the return is required to be filed with the office of the United States Internal Revenue Service in Puerto Rico, the return shall be made on Form 943PR if the Internal Revenue Service furnishes Form 943PR to the employer for use in lieu of Form 943 (see §31.6091–1).

(3) *Employers of domestic workers.* Form 942 is the form prescribed for use by every employer in making a return as required under paragraph (a)(1) of this section in respect of wages, as defined in the Federal Insurance Contributions Act, paid by him in any calendar quarter for domestic service in a private home of the employer not on a farm operated for profit. If, however, the employer is required under paragraph (a)(1) of this section to make a return on Form 941 for such calendar quarter, such employer, at his election may—

(i) Report all wages on Form 941, or

(ii) Report on Form 942 the wages for domestic service in a private home of the employer not on a farm operated for profit and omit such wages from the return on Form 941.

An employer entitled to make the election referred to in the preceding sentence who has chosen one method shall not change to the other method without first notifying the internal revenue office with which he is required to file his returns that he will thereafter use such other method. See, however, §31.6011(a)–6 relating to final returns on Form 941. An employer who makes a return of tax on form 942 pursuant to this section shall submit as part of such return for a period ending December 31, or for any period for which such return is made as a final return, the Internal Revenue Service copy of a Form W-2 for each employee with respect to whose wages tax is reported thereon. The provisions of this subparagraph shall not apply to any employer filing a return on Forms 941PR or 942PR (see §31.6091–1).

(4) *Employers in Puerto Rico or the Virgin Islands.* Form 941PR is the form prescribed for use in making the return required under paragraph (a)(1) of this section in the case of every employer who is required to file such return with the office of the United States Internal Revenue Service in Puerto Rico, except that the return shall be made on Form 941VI if the Internal Revenue Service furnishes Form 941VI to the employer for use in lieu of Form 941PR. However, Form 941 is the form prescribed for making such return in the case of every such employer who is required pursuant to §31.6011(a)–4 to make a return of income tax withheld from wages.

(b) *When to report wages.* Wages with respect to which taxes are imposed by the Federal Insurance contributions Act shall be reported in the return of such taxes required under this section or §31.6011(a)–5 for the return period in which they are actually paid unless they were constructively paid in a prior return period, in which case such wages shall be reported only in the return for such prior period. However, if such wages are deemed to be paid in a later return period, they shall be reported only in the return for such later period. See §31.3121(a)–2 relating to the time when wages are paid or deemed to be paid.

(c) *Correction of returns or schedules.* If in a return required under this section or §31.6011(a)–5, or in any other manner, the employer fails to report, or incorrectly reports, the name, account number, or wages of an employee, the employer shall furnish to the internal revenue office with which he is required to file his returns a written statement fully explaining the omission or error; except that such statement is not required by this paragraph if correction of the omission or error is made in connection with a supplemental return, adjustment, credit, refund, or abatement. The employer shall include in such statement his identification number (except that an identification number need not be included if the omission or error is with respect to information required to be reported on a return on Form 942), each return period for which the data were omitted or for which the incorrect data were furnished, the data incorrectly reported for each period, and the data which should have been reported. A copy of

such statement shall be retained by the employer as a part of his records under §31.6001–2. No particular form is prescribed for making such statement, but if printed forms are desired, any internal revenue office will supply copies of Form 941c or Form 941cPR, whichever is appropriate, upon request.

(d) *Returns by employees in respect of tips.* If—

(1) An employee, during a calendar year, is paid wages in the form of tips which are subject to the tax under section 3101, and

(2) Any portion of the tax under section 3101 in respect of such wages cannot be collected by the employer from wages (exclusive of tips) of such employee or from funds turned over by the employee to the employer,

the employee shall make a return for the calendar year in respect of the employee tax not collected by the employer. Except as otherwise provided in this subparagraph, the return shall be made on Form 1040. The form to be used by residents of the Virgin Islands, Guam, or American Samoa is Form 1040SS. In the case of a resident of Puerto Rico who is not required to make a return of income under section 6012(a), the form to be used is Form 1040SS, except that Form 1040PR shall be used if it is furnished by the Internal Revenue Service to such resident for use in lieu of Form 1040SS.

(e) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see §§31.6071(a)–1 and 31.6091–1, respectively.

(f) *Wages paid in nonconvertible foreign currency.* For provisions relating to returns filed by certain employers who pay wages in nonconvertible foreign currency, see §301.6316–7 of this chapter (Regulations on Procedure and Administration).

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7001, 34 FR 1004, Jan. 23, 1969; T.D. 7001, 34 FR 1826, Feb. 7, 1969; T.D. 7200, 37 FR 16544, Aug. 16, 1972; T.D. 7351, 40 FR 17144, Apr. 17, 1975; T.D. 7396, 41 FR 1903, Jan. 13, 1976]

§31.6011(a)–2 Returns under Railroad Retirement Tax Act.

(a) *Requirement*—(1) *Employers.* Every employer shall make a return for the first return period after 1954 within which compensation taxable under the Railroad Retirement Tax Act is paid to his employee or employees for services rendered after 1954, and for each subsequent return period (whether or not taxable compensation is paid therein) until he has filed a final return in accordance with §31.6011(a)–6. For calendar years after 1975, the return period shall be the calendar year; for calendar years prior to 1976, the return period shall be the calendar quarter. Form CT–1 is the form prescribed for making the return required under this paragraph. One original and a duplicate of each return on Form CT–1 shall be filed with the director of the service center.

(2) *Employee representatives.* Every employee representative shall make a return for the first calendar quarter after 1954 within which he is paid taxable compensation for services rendered after 1954 as an employee representative, and for each subsequent calendar quarter (whether or not he is paid taxable compensation therein) until he has filed a final return in accordance with §31.6011(a)–6. Form CT–2 is the form prescribed for making the return required under this subparagraph. One original and a duplicate of each return on Form CT–2 shall be filed with the director of the service center.

(b) *When to report compensation*—(1) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, compensation taxable under the Railroad Retirement Tax Act shall be reported in the return required under this section for the period in which it is deemed, under paragraph (d) of §31.3231(e)–1 to be paid, unless under such section the compensation may be deemed to be paid in more than one return period, in which case it shall be reported only in the return for the first return period in which it is deemed to be paid.

(2) *Pre-1976 returns of employers required by State law to pay compensation on weekly basis*—(i) *In general.* If any employer is required by the laws of any State to pay compensation weekly in any calendar year prior to 1976, the return of tax with respect to such compensation may, at the election of such employer, cover all payroll weeks which, or the major part of which, fall