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within the period for which a return of tax is required by paragraph (a)(1) of this section. This provision shall not apply, however, to any payroll week which falls in two calendar years. Any employer who elects to file a return as provided in this subparagraph shall notify the district director in writing of such election and shall include therein a statement setting forth the facts which entitle him to make the election. Such notice shall be in duplicate and shall be attached to the original and duplicate of the return for the first period to which such election applies. Any election so made shall be binding upon the employer with respect to all returns subsequently made by him until the director of the service center authorizes or directs the employer to make a return on a different basis. For the purpose of determining the time when compensation is deemed to be paid in accordance with paragraph (d) of §31.3231(e)–1 and of determining the due date of a return in accordance with paragraph (b) of §31.6071(a)–1, the calendar month following the period covered by the return of an employer making such election is the same calendar month which would be determinative for such purposes if the employer had not made the election.

(ii) *Prior elections.* An election made by an employer, pursuant to the provisions of 26 CFR (1939) 410.501(b) (Regulations 100) or of 26 CFR (1939) 411.601 (b) (Regulations 114), which is in force and effect at the time the employer makes his first return under this section shall satisfy the requirements of paragraph (b)(2)(i) of this section with respect to the making of an election and shall be binding upon the employer with respect to all returns made by him under this section until the director of the service center authorizes or directs the employer to make a return on a different basis.

(iii) *Example.* Employer X is required by State law to pay his employees within 6 days after the compensation is earned. In compliance with the State law, employer X, for services rendered to him for the payroll week of June 27 to July 2, 1955, pays his employees on the last-named date. June 1955 is the last month of a period for which a return of tax is required by paragraph (a)(1) of this section. Employer X may elect to include in the return required by paragraph (a)(1) of this section for the period April 1 to June 30, 1955, the compensation paid to his employees for the payroll week of June 27 to July 2, 1955, inclusive, although the compensation for July 1 and 2 falls within another period for which a return is required by paragraph (a)(1) of this section. If, in this example, the payroll week ended on July 5, 1955, the compensation paid for the payroll week of June 29 to July 5 would be included in the return period in which July falls although the compensation earned for June 29 and 30 fell in a prior return period under the general rule.

(c) *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.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7396, 41 FR 1903, Jan. 13, 1976]

§31.6011(a)–3 Returns under Federal Unemployment Tax Act.

(a) *Requirement.* Every person shall make a return of tax under the Federal Unemployment Tax Act for each calendar year with respect to which he is an employer as defined in §31.3306(a)–1. Except as otherwise provided in §31.6011 (a)–8, Form 940 is the form prescribed for use in making the return.

(b) *When to report wages.* Wages taxable under the Federal Unemployment Tax Act shall be reported in the return required under this section 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.

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

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7200, 37 FR 16544, Aug. 16, 1972]

§31.6011(a)–3A Returns of the railroad unemployment repayment tax.

(a) *Requirement*—(1) *Employers.* Every rail employer (as defined in section 3323(a) and section 1 of the Railroad Unemployment Insurance Act) shall