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§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

(a) *Introduction.* With respect to employment taxes attributable to payments made after December 31, 1992, an employer is either a monthly depositor or a semi-weekly depositor based on an annual determination. An employer must generally deposit employment taxes under one of two rules: the Monthly rule in paragraph (c)(1) of this section, or the Semi-Weekly rule in paragraph (c)(2) of this section. Various exceptions and safe harbors are provided. Paragraph (f) of this section provides certain safe harbors for employers who inadvertently fail to deposit the full amount of taxes. Paragraph (c)(3) of this section provides an overriding exception to the Monthly and Semi-Weekly rules where an employer has accumulated $100,000 or more of employment taxes. Paragraph (e) of this section provides the definition of employment taxes.

(b) *Determination of status*—(1) *In general.* The determination of whether an employer is a monthly or semi-weekly depositor for a calendar year is based on an annual determination and generally depends upon the aggregate amount of employment taxes reported by the employer for the lookback period as defined in paragraph (b)(4) of this section.

(2) *Monthly depositor*—(i) *In general.* An employer is a monthly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the lookback period is $50,000 or less.

(ii) *Special rule.* An employer ceases to be a monthly depositor on the first day after the employer is subject to the One-Day ($100,000) rule in paragraph (c)(3) of this section. At that time, the employer immediately becomes a semi-weekly depositor for the remainder of the calendar year and for the following calendar year.

(3) *Semi-weekly depositor.* An employer is a semi-weekly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the lookback period exceeds $50,000.

(4) *Lookback period.* The lookback period for each calendar year is the twelve month period ended the preceding June 30. For example, the lookback period for calendar year 1993 is the period July 1, 1991 to June 30, 1992. In determining status as either a monthly or semi-weekly depositor, an employer should determine the aggregate amount of employment tax liabilities reported on its quarterly returns (Form 941) for the four quarters constituting this period. New employers shall be treated as having employment tax liabilities of zero for any calendar quarter during which the employer did not exist.

(5) *Adjustments.* The tax liability shown on an original return for the return period shall be the amount taken into account in determining whether more than $50,000 has been reported during the lookback period. In determining the aggregate employment taxes for each quarter in a lookback period, an employer does not take into account any adjustments for the quarter made on a supplemental return filed after the due date of the return. However, adjustments made on a Form 941c, Statement to Correct Information, attached to a Form 941 filed for a subsequent quarter are taken into account in determining the employment tax liability for the subsequent quarter.

(c) *Deposit rules*—(1) *Monthly rule.* An employer that is a monthly depositor must deposit employment taxes accumulated with respect to payments made during a calendar month in a Federal Reserve bank or authorized financial institution on or before the 15th day of the following month. If the 15th day of the following month is not a banking day, taxes will be treated as timely deposited if deposited on the first banking day thereafter in accordance with paragraph (c)(4) of this section.

(2) *Semi-Weekly rule*—(i) *In general.* An employer that is a semi-weekly depositor for a calendar year must deposit its employment taxes in a Federal Reserve bank or authorized financial institution on or before the dates set forth below:

Payment dates/semi-weekly periods	Deposit date
Wednesday, Thursday and/or Friday.	On or before the following Wednesday.
Saturday, Sunday, Monday and/or Tuesday.	On or before the following Friday.

(ii) *Semi-weekly period spanning two return periods.* A special rule is provided in the case of a return period (quarterly or annual) that ends during a semi-weekly period. In this case, an employer must complete the Federal Tax Deposit (FTD) coupon in a manner which designates the proper return period for which the deposit relates (the return period in which the payment is made). In addition, if the return period ends during a semi-weekly period in which an employer has two or more payment dates, two deposit obligations may exist. For example, if one quarterly return period ends on Thursday and a new quarterly return period begins on Friday, employment taxes from payments on Wednesday and Thursday are subject to one deposit obligation, and taxes from payments on Friday are subject to a separate obligation. Two separate Federal Tax Deposit coupons are required.

(iii) *Special rule for non-banking days.* Semi-weekly depositors shall have at least three banking days following the close of the semi-weekly period by which to deposit employment taxes accumulated during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer shall have an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday.

(3) *Exception—One-Day rule.* Notwithstanding paragraphs (c)(1) and (c)(2) of this section, if on any day within a deposit period (monthly or semi-weekly) an employer has accumulated $100,000 or more of employment taxes, those taxes must be deposited in a Federal Reserve bank or authorized financial institution by the close of the next banking day. For purposes of determining whether the $100,000 threshold is met—

(i) A monthly depositor takes into account only those employment taxes accumulated in the calendar month in which the day occurs; and

(ii) A semi-weekly depositor takes into account only those employment taxes accumulated in the Wednesday-Friday or Saturday-Tuesday semi-weekly period in which the day occurs.

(4) *Deposits required only on banking days.* If taxes are required to be deposited under this section on any day that is not a banking day, the taxes will be treated as timely deposited if deposited on the first banking day thereafter.

(d) *Examples.* The provisions of paragraphs (a), (b) and (c) of this section are illustrated by the following examples:

Example 1. Monthly depositor. (i) *Determination of status.* For the calendar year 1993, Employer *A* determines its depositor status using the lookback period July 1, 1991 to June 30, 1992. For the four calendar quarters within this period, *A* reported aggregate employment tax liabilities of $42,000 on its quarterly Forms 941. Because the aggregate amount did not exceed $50,000, *A* is a monthly depositor for the entire calendar year 1993.

(ii) *Monthly rule.* During January 1993, *A* (a monthly depositor) accumulates $3,500 in employment taxes. *A* has a $3,500 deposit obligation that must be satisfied by the 15th day of the following month. Since February 15, 1993, President's Day, is a holiday which is not a banking day, *A*'s deposit obligation will be satisfied if the deposit is made by the next banking day after February 15.

Example 2. Semi-weekly depositor. (i) *Determination of status.* For the four calendar quarters spanning July 1991 to June 1992, Employer *B* reported $88,000 in aggregate employment tax liabilities on its Forms 941. Because that amount exceeds $50,000, *B* is a semi-weekly depositor for the entire calendar year 1993.

(ii) *Semi-weekly rule.* On Friday, January 1, 1993, *B* (semi-weekly depositor) has a pay day on which it accumulates $4,000 in employment taxes. *B* has a $4,000 deposit obligation that must be satisfied on or before the following Wednesday, January 6, 1993.

(iii) *Deposit made within three banking days after payroll.* The example is the same as *Example 2 (ii),* except that *B* deposits its accumulated employment taxes within three banking days after payroll. *B* deposits its $4,000 in employment taxes on Wednesday, January 6, three banking days after its Friday payroll. Because *B* deposited its employment taxes on or before the following Wednesday, *B* has satisfied its semi-weekly

deposit obligation. An employer who deposits within three banking days after payroll will always meet the Semi-Weekly rule.

Example 3. One-Day rule. On Monday, January 4, 1993, Employer *C* accumulates $110,000 in employment taxes with respect to wages paid on that date. *C* has a deposit obligation of $110,000 that must be satisfied by the next banking day. If *C* was not subject to the semi-weekly rule on January 4, 1993, *C* becomes subject to that rule as of January 5, 1993. See paragraph (b)(2)(ii) of this section.

Example 4. One-Day Rule in combination with subsequent deposit obligation. Employer *D* is subject to the semi-weekly rule for calendar year 1993. On Monday, January 4, 1993, *D* accumulates $110,000 in employment taxes. *D* has a $110,000 deposit obligation that must be satisfied by the next banking day. On Tuesday, January 5, *D* accumulates an additional $30,000 in employment taxes. Although *D* has a previous $110,000 deposit obligation incurred earlier in the semi-weekly period, *D* has an additional and separate deposit obligation of $30,000 on Tuesday that must be satisfied by the following Friday.

Example 5. Special non-banking day rule for semi-weekly depositors. Employer *E*, a semi-weekly depositor, accumulates $8,000 in employment taxes on Friday, February 12, 1993, a payment date. Under the general rule, *E* would be required to deposit the employment taxes on or before the following Wednesday, February 17. However, because Monday, February 15, is President's Day (a holiday on which banks are closed), *E* will have an additional day by which to satisfy its $8,000 deposit obligation. *E*'s deposit obligation is due on or before Thursday, February 18, 1993.

(e) *Employment taxes defined.* (1) For purposes of this section, the term ''employment taxes'' means—

(i) The employee portion of the tax withheld under section 3102;

(ii) The employer tax under section 3111;

(iii) The income tax withheld under sections 3402 and 3405, except income tax withheld with respect to payments made after December 31, 1993, on the following—

(A) Certain gambling winnings under section 3402(q);

(B) Retirement pay for service in the Armed Forces of the United States under section 3402;

(C) Certain annuities described in section 3402(o)(1)(B); and

(D) Pensions, annuities, IRAs, and certain other deferred income under section 3405; and

(iv) The income tax withheld under section 3406, relating to backup withholding with respect to reportable payments made before January 1, 1994.

(2) The term ''employment taxes'' does not include taxes with respect to wages for domestic service in a private home of the employer, unless the employer is otherwise required to file a Form 941 under §31.6011(a)(4) or (5). In the case of employers paying advance earned income credit amounts, the amount of taxes required to be deposited shall be reduced by advance amounts paid to employees. Also, see §31.6302–3 concerning a taxpayer's option with respect to payments made before January 1, 1994, to treat backup withholding amounts under section 3406 separately.

(f) *Safe harbor/De minimis rules*—(1) *Single deposit safe harbor.* An employer will be considered to have satisfied its deposit obligation imposed by this section if—

(i) The amount of any shortfall does not exceed the greater of $100 or 2 percent of the amount of employment taxes required to be deposited; and

(ii) The employer deposits the shortfall on or before the shortfall make-up date.

(2) *Shortfall defined.* For purposes of this paragraph (f), the term ''shortfall'' means the excess of the amount of employment taxes required to be deposited for the period over the amount deposited for the period. For this purpose, a period is either a monthly, semi-weekly or daily period.

(3) *Shortfall make-up date*—(i) *Monthly rule.* A shortfall with respect to a deposit required under the Monthly rule must be deposited or remitted no later than the due date for the quarterly return, in accordance with the applicable form and instructions.

(ii) *Semi-Weekly rule and One-Day rule.* A shortfall with respect to a deposit required under the Semi-Weekly rule or the One-Day rule must be deposited on or before the first Wednesday or Friday (whichever is earlier), falling on or after the 15th day of the month following the month in which the deposit was required to be made or, if earlier, the return due date for the return period.

(4) *De Minimis rule.* For quarterly return periods beginning on or after July

1, 1998, and annual return periods beginning on or after January 1, 1999, if the total amount of accumulated employment taxes for the return period is less than $1,000 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

(5) *Examples.* The provisions of this paragraph (f) may be illustrated by the following examples:

Example 1. Safe-harbor rule satisfied. On Monday, January 4, 1993, *J* (a semi-weekly depositor), pays wages and accumulates employment taxes. As required under this section, *J* makes a deposit on or before the following Friday, January 8, 1993, in the amount of $4,000. Subsequently, *J* determines that it was actually required to deposit $4,090 by Friday. *J* has a shortfall of $90. The $90 shortfall does not exceed the greater of $100 or 2% of the amount required to be deposited (2% of $4,090=$81.80). Therefore, *J* satisfies the safe harbor of paragraph (f)(1) of this section as long as the $90 shortfall is deposited by the first deposit date (Wednesday or Friday) on or after the 15th day of the next month (in this case Wednesday, February 17, 1993).

Example 2. Safe-harbor rule not satisfied. The facts are the same as in *Example 1* except that on Friday, January 8, 1993, *J* makes a deposit of $25,000, and later determines that it was actually required to deposit $26,000. Since the $1,000 shortfall ($26,000 less $25,000) exceeds $520 (the greater of $100 or 2% of the amount required to be deposited (2% of $26,000=$520)), the safe harbor of paragraph (f)(1) of this section is not satisfied, and absent reasonable cause, *J* will be subject to a failure-to-deposit penalty under section 6656.

(g) *Agricultural employers—special rules*—(1) *In general.* An agricultural employer reports wages paid to farm workers annually on Form 943 (Employer's Annual Tax Return for Agricultural Employees) and reports wages paid to nonfarm workers quarterly on Form 941 (Employer's Quarterly Federal Tax Return). Accordingly, an agricultural employer must treat employment taxes reportable on Form 943 (''Form 943 taxes'') separately from employment taxes reportable on Form 941 (''Form 941 taxes''). Form 943 taxes and Form 941 taxes are not combined for purposes of determining whether a deposit of either is due, whether the One-Day rule of paragraph (c)(3) of this section applies, or whether any safe harbor is applicable. In addition, separate Federal tax deposit coupons must be used to deposit Form 943 taxes and Form 941 taxes. (See paragraph (b) of this section for rules for determining an agricultural employer's deposit status for Form 941 taxes.) The determination of whether an agricultural employer is a monthly or semi-weekly depositor of Form 943 taxes is made according to the rules of this paragraph (g).

(2) *Monthly depositor.* An agricultural employer is a monthly depositor of Form 943 taxes for a calendar year if the amount of Form 943 taxes accumulated in the lookback period (as defined in paragraph (g)(4) of this section) is $50,000 or less. An agricultural employer ceases to be a monthly depositor of Form 943 taxes on the first day after the employer is subject to the One-Day rule in paragraph (c)(3) of this section. At that time, the agricultural employer immediately becomes a semi-weekly depositor of Form 943 taxes for the remainder of the calendar year and the succeeding calendar year.

(3) *Semi-weekly depositor.* An agricultural employer is a semi-weekly depositor of Form 943 taxes for a calendar year if the amount of Form 943 taxes accumulated in the lookback period (as defined in paragraph (g)(4) of this section) exceeds $50,000.

(4) *Lookback period.* For purposes of this paragraph (g), the lookback period for Form 943 taxes is the second calendar year preceding the current calendar year. For example, the lookback period for calendar year 1993 is calendar year 1991.

(5) The following example illustrates the provisions of this section.

Example. A, an agricultural employer, employs both farm workers and nonfarm workers (employees in its administrative offices). *A*'s depositor status for calendar year 1993 for Form 941 taxes will be based upon its employment tax liabilities reported on Forms 941 for the third and fourth quarters of 1991 and the first and second quarters of 1992 (the period July 1 to June 30). *A*'s depositor status for Form 943 taxes will be based upon its employment tax liability reported on its annual Form 943 for calendar year 1991.

(h) *Time and manner of deposit—deposits required to be made by electronic funds transfer*—(1) *In general.* Section 6302(h) requires the Secretary to prescribe such regulations as may be necessary

for the development and implementation of an electronic funds transfer system to be used for the collection of the depository taxes as described in paragraph (h)(3) of this section. Section 6302(h)(2) provides a phase-in schedule that sets forth escalating minimum percentages of those depository taxes to be deposited by electronic funds transfer. This paragraph (h) prescribes the rules necessary for implementing an electronic funds transfer system for collection of depository taxes and for effecting an orderly and expeditious phase-in of that system.

(2) *Applicability of requirement*—(i) *Deposits for return periods beginning before January 1, 2000.* (A) Taxpayers whose aggregate deposits of the taxes imposed by Chapters 21 (Federal Insurance Contributions Act), 22 (Railroad Retirement Tax Act), and 24 (Collection of Income Tax at Source on Wages) of the Internal Revenue Code during a 12-month determination period exceed the applicable threshold amount are required to deposit all depository taxes described in paragraph (h)(3) of this section by electronic funds transfer (as defined in paragraph (h)(4) of this section) unless exempted under paragraph (h)(5) of this section. If the applicable effective date is January 1, 1995, or January 1, 1996, the requirement to deposit by electronic funds transfer applies to all deposits required to be made on or after the applicable effective date. If the applicable effective date is July 1, 1997, the requirement to deposit by electronic funds transfer applies to all deposits required to be made on or after July 1, 1997 with respect to deposit obligations incurred for return periods beginning on or after January 1, 1997. If the applicable effective date is January 1, 1998, or thereafter, the requirement to deposit by electronic funds transfer applies to all deposits required to be made with respect to deposit obligations incurred for return periods beginning on or after the applicable effective date. In general, each applicable effective date has one 12-month determination period. However, for the applicable effective date January 1, 1996, there are two determination periods. If the applicable threshold amount is exceeded in either of those determination periods, the taxpayer becomes subject to the requirement to deposit by electronic funds transfer, effective January 1, 1996. The threshold amounts, determination periods and applicable effective dates for purposes of this paragraph (h)(2)(i)(A) are as follows:

Threshold amount	Determination period	Applicable effective date
$78 million	1–1–93 to 12–31–93	Jan. 1, 1995.
$47 million	1–1–93 to 12–31–93	Jan. 1, 1996.
$47 million	1–1–94 to 12–31–94	Jan. 1, 1996.
$50 thousand	1–1–95 to 12–31–95	July 1, 1997.
$50 thousand	1–1–96 to 12–31–96	Jan. 1, 1998.
$50 thousand	1–1–97 to 12–31–97	Jan. 1, 1999.

(B) Unless exempted under paragraph (h)(5) of this section, a taxpayer that does not deposit any of the taxes imposed by chapters 21, 22, and 24 during the applicable determination periods set forth in paragraph (h)(2)(i)(A) of this section, but that does make deposits of other depository taxes (as described in paragraph (h)(3) of this section), is nevertheless subject to the requirement to deposit by electronic funds transfer if the taxpayer's aggregate deposits of all depository taxes exceed the threshold amount set forth in this paragraph (h)(2)(i)(B) during an applicable 12-month determination period. This requirement to deposit by electronic funds transfer applies to all depository taxes due with respect to deposit obligations incurred for return periods beginning on or after the applicable effective date. The threshold amount, determination periods, and applicable effective dates for purposes of this paragraph (h)(2)(i)(B) are as follows:

Threshold amount	Determination period	Applicable effective date
$50 thousand	1–1–95 to 12–31–95	Jan. 1, 1998.
$50 thousand	1–1–96 to 12–31–96	Jan. 1, 1998.
$50 thousand	1–1–97 to 12–31–97	Jan. 1, 1999.

(C) This paragraph (h)(2)(i) applies only to deposits required to be made for return periods beginning before January 1, 2000. Thus, a taxpayer, including a taxpayer that is required under this paragraph (h)(2)(i) to make deposits by electronic funds transfer beginning in 1999 or an earlier year, is not required to use electronic funds transfer to make deposits for return periods beginning after December 31, 1999, unless deposits by electronic funds transfer are required under paragraph (h)(2)(ii) of this section.

(ii) *Deposits for return periods beginning after December 31, 1999.* Unless exempted under paragraph (h)(5) of this section, a taxpayer that deposits more than $200,000 of taxes described in paragraph (h)(3) of this section during a calendar year beginning after December 31, 1997, must use electronic funds transfer (as defined in paragraph (h)(4) of this section) to make all deposits of those taxes that are required to be made for return periods beginning after December 31 of the following year and must continue to deposit by electronic funds transfer in all succeeding years. Thus, a taxpayer that exceeds the $200,000 deposit threshold during calendar year 1998 is required to make deposits for return periods beginning in or after calendar year 2000 by electronic funds transfer.

(iii) *Voluntary deposits.* A taxpayer that is not required by this section to use electronic funds transfer to make a deposit of taxes described in paragraph (h)(3) of this section may voluntarily make the deposit by electronic funds transfer, but remains subject to the rules of paragraph (i) of this section, pertaining to deposits by Federal tax deposit (FTD) coupon, in making deposits other than by electronic funds transfer.

(3) *Taxes required to be deposited by electronic funds transfer.* The requirement to deposit by electronic funds transfer under paragraph (h)(2) of this section applies to all the taxes required to be deposited under §§1.6302–1, 1.6302–2, and 1.6302–3 of this chapter; §§31.6302–1, 31.6302–2, 31.6302–3, 31.6302–4, and 31.6302(c)–3; and §40.6302(c)–1 of this chapter.

(4) *Definitions*—(i) *Electronic funds transfer. An electronic funds transfer* is any transfer of depository taxes made in accordance with Revenue Procedure 97–33, (1997–30 I.R.B.), (see §601.601(d)(2) of this chapter), or in accordance with procedures subsequently prescribed by the Commissioner.

(ii) *Taxpayer.* For purposes of this section, a *taxpayer* is any person required to deposit federal taxes, including not only individuals, but also any trust, estate, partnership, association, company or corporation.

(5) *Exemptions.* If any categories of taxpayers are to be exempted from the requirement to deposit by electronic funds transfer, the Commissioner will identify those taxpayers by guidance published in the Internal Revenue Bulletin. (See §601.601(d)(2)(ii)(*b*) of this chapter.)

(6) *Separation of deposits.* A deposit for one return period must be made separately from a deposit for another return period.

(7) *Payment of balance due.* If the aggregate amount of taxes reportable on the applicable tax return for the return period exceeds the total amount deposited by the taxpayer with regard to the return period, then the balance due must be remitted in accordance with the applicable form and instructions.

(8) *Time deemed deposited.* A deposit of taxes by electronic funds transfer will be deemed made when the amount is withdrawn from the taxpayer's account, provided the U.S. Government is the payee and the amount is not returned or reversed.

(9) *Time deemed paid.* In general, an amount deposited under this paragraph (h) will be considered to be a payment of tax on the last day prescribed for filing the applicable return for the return period (determined without regard to

any extension of time for filing the return) or, if later, at the time deemed deposited under paragraph (h)(8) of this section. In the case of the taxes imposed by chapters 21 and 24 of the Internal Revenue Code, solely for purposes of section 6511 and the regulations thereunder (relating to the period of limitation on credit or refund), if an amount is deposited prior to April 15th of the calendar year immediately succeeding the calendar year that includes the period for which the amount was deposited, the amount will be considered paid on April 15th.

(i) *Time and manner of deposit*—(1) *General rules.* A deposit required to be made by this §31.6302–1 must be made separately from a deposit required by any other section. See §31.6302–3 for an exception in the case of backup withholding amounts. Further, a deposit for a deposit period in one return period must be made separately from a deposit for a deposit period in another return period.

(2) *Payment of balance due.* If the aggregate amount of taxes reportable on the return for the return period exceeds the total amount deposited by the employer with regard to the return period pursuant to this section, the balance due must be remitted in accordance with the applicable form and instructions.

(3) *Federal Tax Deposit (FTD) coupon.* Each deposit required to be made under this section must be accompanied by an FTD coupon (Form 8109). The FTD coupon shall be prepared in accordance with the instructions applicable thereto. The deposit, together with the FTD coupon, shall be forwarded to a financial institution authorized as a depository for Federal taxes in accordance with 31 CFR part 214 or, at the election of the employer, to a Federal Reserve bank. For procedures governing the deposit of Federal taxes at a Federal Reserve bank, see 31 CFR part 214.7.

(4) *Procurement of FTD coupons.* A new employer should receive its initial supply of FTD coupon books after receiving its employer identification number. In the event that a deposit is required to be made before receipt of the FTD coupon books, the employer should contact the local IRS office and furnish the following information: the business name as it appears on IRS records, the employer identification number, address where the coupon books are to be sent, and the number of coupon books being requested. Filers of Form 1120, Form 990–C, Form 990PF (with net investment income), Form 990–T or Form 2438 must also provide the month the employer's tax year ends. If an employer has applied for an employer identification number but has not received it, and a deposit is required to be made, the employer should send a check or money order for the deposit amount to its Internal Revenue Service center. There should be included on the payment, the name and address of the entity as shown on Form SS–4, Application for Employer Identification Number, the kind of tax, the period covered, and the date on which the employer applied for the employer identification number.

(5) *Time deemed deposited.* The timeliness of a deposit will be determined by the date stamped on the FTD coupon by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e).

(6) *Time deemed paid.* In general, amounts deposited under this section will be considered as paid at the time deemed deposited under paragraph (h)(5) of this section, or on the last day prescribed for filing the return (determined without regard to any extension of time for filing the return), whichever is later. For purposes of section 6511 and the regulations hereunder (relating to the period of limitation on credit or refund), if an amount is deposited prior to April 15th of the calendar year immediately succeeding the calendar year that contains the period for which the amount was deposited, the amount will be considered paid on April 15th.

(j) *Voluntary payments by electronic funds transfer.* Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle C of the Internal Revenue Code. Such payment must be made in accordance with procedures prescribed by the Commissioner.

(k) *Special rules*—(1) *District Director notice exception.* The provisions of this

section are not applicable with respect to employment taxes for any month in which the employer receives notice from the district director that a return is required under §31.6011(a)–5 (or for any subsequent month for which such a return is required), if those taxes are also required to be deposited under the separate accounting procedures provided in §301.7512–1 of the Regulations on Procedure and Administration (which procedures are applicable if notification is given by the district director of failure to comply with certain employment tax requirements). In cases in which a monthly return is required under §31.6011(a)–5 but the taxes are not required to be deposited under the separate accounting procedures provided in §301.7512–1, the provisions of this section shall apply except those provisions shall not authorize the deferral of any deposit to a date after the date on which the return is required to be filed.

(2) *Wages paid in nonconvertible foreign currency.* The provisions of this section are not applicable with respect to wages paid in nonconvertible foreign currency pursuant to §301.6316–7.

(m) *Cross references*—(1) *Failure to deposit penalty.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656 and the provisions of §301.6656–1.

(2) *Saturday, Sunday, or legal holiday.* For provisions relating to the time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday, see the provisions of §301.7503–1.

(l) [Reserved]

(n) *Effective date.* Sections 31.6302–1 through 31.6302–3 apply with respect to the deposit of employment taxes attributable to payments made after December 31, 1992. To the extent that the provisions of §§31.6302–1 through 31.6302–3 are inconsistent with the provisions of §§31.6302(c)–1 and 31.6302(c)–2, a taxpayer will be considered to be in compliance with §§31.6301–1 through 31.6302–3 if the taxpayer makes timely deposits during 1993 in accordance with §§31.6302(c)–1 and 31.6302(c)–2.

[T.D. 8436, 57 FR 44102, Sept. 24, 1992; 57 FR 48724, Oct. 28, 1992; T.D. 8504, 58 FR 68035, Dec. 23, 1993; T.D. 8436, 59 FR 6218, Feb. 10, 1994; T.D. 8723, 62 FR 37493, July 14, 1997; T.D. 8771, 63 FR 32736, June 16, 1998; T.D. 8822, 64 FR 32409, June 17, 1999; T.D. 8828, 64 FR 37676, July 13, 1999]

§31.6302–2 Federal Tax Deposit Rules for amounts withheld under the Railroad Retirement Tax Act (R.R.T.A.) attributable to payments made after December 31, 1992.

(a) *General rule.* Except as otherwise provided in this section, the rules of §31.6302–1 determine the time and manner of making deposits of employee tax withheld under section 3202 and employer tax imposed under sections 3221 (a) and (b) attributable to payments made after December 31, 1992. Railroad retirement taxes described in section 3221(c) arising during the month must be deposited on or before the first date after the 15th day of the following month on which taxes are otherwise required to be deposited under §31.6302–1.

(b) *Separate application of deposit rules.* A person who accumulates tax under sections 3202 or 3221 shall not take that tax into account for purposes of determining when taxes described in paragraph (e) of §31.6302–1 must otherwise be deposited.

(c) *Modification of Monthly rule determination*—(1) *General rule.* Except as otherwise provided in this section, any person is allowed to use the Monthly rule of §31.6302–1(c)(1) for an entire calendar year unless the amount of R.R.T.A. taxes required to be deposited under this section during the lookback period was more than $50,000. The lookback period is defined as the calendar year preceding the calendar year just ended. Thus, for purposes of determining if an R.R.T.A. employer qualifies to use the Monthly rule for calendar year 1993, a lookback must be made to calendar year 1991. New employers shall be treated as having employment tax liabilities of zero for any calendar year during which the employer did not exist.