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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.

(2) *Exception.* An employer shall immediately cease to be allowed to use the Monthly rule after any day on which that employer is subject to the One-Day rule set forth in §31.6302–1(c)(3). Such employer immediately becomes subject to the Semi-Weekly rule of §31.6302–1(c)(2) for the remainder of the calendar year and the following calendar year.

(d) *Wire-transfer exception.* If, for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under sections 3202 and 3221 with respect to an employer equalled or exceeded $1 million, the employer must deposit the aggregate amount of railroad retirement taxes required to be deposited for the current calendar year in accordance with §31.6302(c)–2(a)(1).

[T.D. 8436, 57 FR 44105, Sept. 24, 1992]

§31.6302–3 Federal tax deposit rules for amounts withheld under the backup withholding requirements of section 3406 for payments made after December 31, 1992.

(a) *General rule.* The rules of §31.6302–1 shall apply to determine the time and manner of making deposits of amounts withheld under the backup withholding requirements of section 3406.

(b) *Treatment of backup withholding amounts separately.* A taxpayer that withholds income tax under section 3406 with respect to reportable payments made after December 31, 1992, and before January 1, 1994, may, in accordance with the instructions provided with Form 941, deposit such tax under the rules of §31.6302–1 without taking into account the other taxes described in paragraph (e) of §31.6302–1 for purposes of determining when tax withheld under section 3406 must be deposited. A taxpayer that treats backup withholding amounts separately with respect to reportable payments made after December 31, 1992, and before January 1, 1994, shall not take tax withheld under section 3406 into account for purposes of determining when the other taxes described in paragraph (e) of §31.6302–1 must otherwise be deposited under that section. See §31.6302–4 for rules regarding the deposit of income tax withheld under section 3406 with respect to reportable payments made after December 31, 1993.

(c) *Example.* The following example illustrates the provisions of this section.

Example. For the last two calendar quarters of 1991 and the first two calendar quarters of 1992, Bank *A* reports employment taxes with respect to wages paid totalling in excess of $50,000. For the same four quarters, pursuant to section 3406, *A* withholds income tax with respect to dividend payments in an amount aggregating less than $50,000. For deposit and reporting purposes, *A* treated the backup withholding amounts separately from the employment taxes with respect to wages paid. Accordingly, for calendar year 1993, if *A* chooses to treat the items separately, *A* must use the Semi-Weekly rule of §31.6302–1(c)(2) to deposit taxes with respect to wages paid but may use the Monthly rule of §31.6302–1(c)(1) for the deposit of backup withholding amounts. If *A* chooses not to treat the items separately, the Semi-Weekly rule would apply to the combined amount of both the taxes with respect to wages paid and the backup withholding amounts.

[T.D. 8436, 57 FR 44106, Sept. 24, 1992, as amended by T.D. 8504, 58 FR 68035, Dec. 23, 1993]

§31.6302–4 Federal tax deposit rules for withheld income taxes attributable to nonpayroll payments made after December 31, 1993.

(a) *General rule.* With respect to nonpayroll withheld taxes attributable to nonpayroll payments made after December 31, 1993, a taxpayer is either a monthly or a semi-weekly depositor based on an annual determination. Except as provided in this section, the rules of §31.6302–1 shall apply to determine the time and manner of making deposits of nonpayroll withheld taxes as though they were employment taxes. Paragraph (b) of this section defines nonpayroll withheld taxes. Paragraph (c) of this section provides rules for determining whether a taxpayer is a monthly or a semi-weekly depositor.

(b) *Nonpayroll withheld taxes defined.* For purposes of this section, effective with respect to payments made after December 31, 1993, *nonpayroll withheld taxes* means—

(1) Amounts withheld under section 3402(q), relating to withholding on certain gambling winnings;

(2) Amounts withheld under section 3402 with respect to amounts paid as