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§ 31.6302(c)–1 Use of Government depositories in connection with taxes under Federal Insurance Contributions Act and income tax withheld for amounts attributable to payments made before January 1, 1993.

(a) *Requirement for calendar months beginning after December 31, 1980, but before January 1, 1993*—(1) *In general.* (i) In the case of a calendar month which begins after December 31, 1980, but before April 1, 1991—

(*a*) Except as provided in paragraph (b) of this section and hereinafter in this subdivision (i), if at the close of any calendar month the aggregate amount of undeposited taxes (as defined in paragraph (a)(1)(iii) of this section) is $500 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution (see paragraph (a)(3)(iii) of this section) within 15 calendar days after the close of such calendar month.

However, this (*a*) of subdivision (i) shall not apply if the employer was required to make a deposit of taxes pursuant to (*b*) of this subdivision (i) with respect to an eighth-monthly period which occurred during the calendar month.

(*b*) Except as provided in paragraph (b) of this section and except in the case of first-time 3-banking-day depositors, if at the close of any eighth-monthly period the aggregate amount of undeposited taxes is $3,000 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of such eighth-monthly period. For purposes of determining the amount of undeposited taxes at the close of an eighth-monthly period, undeposited taxes with respect to wages paid during a prior eighth-monthly period shall not be taken into account if the employer has made a deposit with respect to such prior eighth-monthly period. An employer will be considered to have complied with the requirements of this paragraph (a)(1)(i)(*b*) for a deposit with respect to the close of an eighth-monthly period if—

(*1*) His deposit is not less than 95 percent (90 percent before January 1, 1982) of the aggregate amount of the taxes with respect to wages paid during the period for which the deposit is made, and

(*2*) If such eighth-monthly period occurs in a month other than the last month of a period for which a return is required to be filed (hereinafter in this subparagraph referred to as a return period), he deposits any underpayment with his first deposit which is otherwise required by this paragraph (a)(1)(i)(*b*) to be made after the 15th day of the following month.

For purposes of this paragraph (a)(1)(i)(*b*), a ''first-time 3-banking-day depositor'' is an employer who establishes to the satisfaction of the Commissioner that he was not required (but for this exception) to make a deposit pursuant to this paragraph (a)(1)(i)(*b*) (or pursuant to paragraph (a)(1)(ii)(*b*) of this section) with respect to each period in any preceding month of the current calendar quarter and with respect to each period in the 4 calendar quarters preceding the current calendar quarter. An employer may in no event qualify as a ''first-time 3-banking-day depositor'' with respect to any eighth-monthly period if the undeposited taxes at the close of that period are $10,000 or more.

The excess (if any) of a deposit over the actual taxes for a deposit period shall be applied in order of time to each of the employer's succeeding deposits with respect to the same return period, until exhausted, to the extent that the amount by which the taxes for a subsequent deposit period exceed the deposit for such subsequent deposit period. For purposes of this paragraph (a)(1)(i), ''eighth-monthly period'' means the first 3 days of a calendar month, the 4th day through the 7th day of a calendar month, the 8th day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

(*c*) The periods within which taxes must be desposited under this section

are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

(ii) In the case of a calendar month which begins after March 31, 1991, but before January 1, 1993—

(*a*) Except as provided in §31.6302(c)–1(a)(1)(ii) (*b*) or (*c*), or §31.6302(c)–1(b), if with respect to any calendar month the aggregate amount of taxes (as defined in §31.6302(c)–1(a)(1)(iii)) accumulated with respect to wages paid is $500 or more, but less than $3,000, then the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution within 15 calendar days after the close of that calendar month. Taxes accumulated with respect to wages paid in a prior calendar month within the same return period shall not be taken into account in determining the aggregate amount of taxes accumulated if a deposit was required to be made under this section with respect to such tax amounts. Deposits made during the calendar month of taxes with respect to wages paid during that month do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for that month. However, this paragraph (a)(1)(ii)(*a*) shall not apply if the employer was required to make a deposit of taxes pursuant to paragraph (a)(1)(ii)(*b*) of this section with respect to an eighth–month period which occurred during the calendar month.

Example 1. Employer *A*'s aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $800. Since that amount is in excess of $500, but less than $3,000, *A* must deposit the $800 in a Federal Reserve bank or authorized financial institution by May 15, 1991.

Example 2. Employer *B*'s aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $400. Since that amount is less than $500, *B* has no deposit obligation for the month of April. In May 1991 *B*'s aggregate amount of taxes accumulated with respect to wages paid during the month is $450. Since the $400 in taxes in April was not required to be deposited, that amount is taken into account in determining if a deposit is required for May. The aggregate amount of taxes accumulated with respect to wages paid for the two months is in excess of $500, thus requiring a deposit. Since June 15, 1991, is a Saturday, *B* must deposit the $850 in a Federal Reserve bank or authorized financial institution by Monday, June 17, 1991, pursuant to section 7503 of the Code.

Example 3. The facts are the same as in *Example 2* except that *B* deposits the $400 in taxes from April on May 15, 1991. Because the $400 was not required to be deposited, that amount is taken into account in determining if a deposit obligation exists for May. Since the aggregate amount of taxes accumulated with respect to wages paid for the two months, $850, is in excess of $500, a deposit in the aggregate amount of $850 is required by Monday, June 17, 1991. Since $400 was previously deposited, *B* must deposit an additional $450 by June 17, 1991.

Example 4. On Friday, April 5, 1991, a payroll date, Employer *C* accumulates $450 in taxes with respect to wages paid on that date. Although not required to do so, *C* deposits the $450 in an authorized depository. On Friday, April 19, 1991, *C* accumulates an additional $450 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the calendar month is $900. *C* has a deposit obligation of $900 for the calendar month and must deposit an additional $450 in an authorized depository by May 15, 1991.

(*b*) Except as provided in §31.6302(c)–1(a)(1)(ii)(*c*) or §31.6302(c)–1(b), and except in the case of first-time 3-banking-day depositors (as defined in §31.6302(c)–1(a)(1)(i)(*b*)(*2*)), if with respect to any eighth-monthly period (as defined in §31.6302(c)–1(a)(1)(i)(*b*)) the aggregate amount of taxes accumulated with respect to wages paid is $3,000 or more, but less than $100,000, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of that eighth-monthly period. Taxes accumulated with respect to wages paid during a prior eighth-monthly period shall not be taken into account if a deposit was required to be made under this section with respect to such tax amounts. Deposits made during the eighth-monthly period of taxes with respect to wages paid during that eighth-monthly period do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for that eighth-monthly period. Solely for purposes of the examples in this paragraph (a)(1)(ii)(*b*) and paragraphs (a)(1)(ii)(*c*), (*d*), and (*f*) of this section, ''banking

days'' are assumed to include all calendar days except Saturdays, Sundays, and Federal holidays.

Example 1. For the eighth-monthly period April 1–3, 1991, Employer *D*'s aggregate amount of taxes accumulated with respect to wages paid is $3,500. Since that amount is in excess of $3,000, but less than $100,000, *D* has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, the third banking day after the close of the eighth-monthly period.

Example 2. For the eighth-monthly period April 1–3, 1991, Employer *E*'s aggregate amount of taxes accumulated with respect to wages paid is $3,500. *E* has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, three banking days after the close of the April 1–3 eighth-monthly period. For the eighth-monthly period April 4–7, 1991, *E*'s aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since *E* was required to make a deposit for the April 1–3 eighth-monthly period, that $3,500 amount is not taken into account in determining any obligations that arise in subsequent eighth-monthly periods. *E* does not have an eighth-monthly deposit obligation with respect to the April 4–7 period.

Example 3. For the eighth-monthly period April 1–3, 1991, Employer *F*'s aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since that amount is less than $3,000, no deposit is required with respect to that eighth-monthly period. For the eighth-monthly period April 4–7, 1991, *F*'s aggregate amount of taxes accumulated with respect to wages paid is $2,500. Since *F* was not required to deposit the $2,800 in taxes from the April 1–3 eighth-monthly period, that amount is taken into account in determining *F*'s deposit obligation for the April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. *F* has a deposit obligation of $5,300 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 4. The facts are the same as in *Example 3* except that *F* deposits the $2,800 from the April 1–3 eighth-monthly period on April 4, 1991. Because the $2,800 was not required to be deposited, that amount is taken into account in determining *F*'s deposit obligation for the April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. Since that amount is in excess of $3,000, a deposit obligation exists after the close of the April 4–7 eighth-monthly period. As $2,800 of that amount was previously deposited, *F* has a deposit obligation of $2,500 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 5. On Friday, April 12, 1991, the beginning of an eighth-monthly period (April 12–15), *G* accumulates $3,500 in taxes with respect to wages paid and deposits the $3,500 in an authorized depository on that date although a deposit of the $3,500 was not required to be made on that date. On Monday, April 15, 1991, the end of the April 12–15 eighth-monthly period, *G* accumulates an additional $2,000 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the April 12–15 eighth-monthly period of $5,500. *G* has a deposit obligation for the eighth-monthly period of $5,500. Since $3,500 of that amount was previously deposited, *G* has a remaining deposit obligation of $2,000 that must be satisfied by Thursday, April 18, 1991, three banking days after the close of the eighth-monthly period.

(*c*) If on any day within an eighth-monthly period the aggregate amount of taxes accumulated with respect to wages paid is $100,000 or more, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution on the first banking day after that day. Taxes accumulated with respect to wages paid prior to that day shall not be taken into account if a deposit was required under this section with respect to such tax amounts. Taxes deposited on any given day with respect to wages paid on that day do not reduce the aggregate amount of taxes accumulated on that day for purposes of determining the deposit requirement (if any) for that day.

Example 1. On Thursday, April 4, 1991, the beginning of the April 4–7 eighth-monthly period, Employer *H* accumulates $55,000 in taxes with respect to wages paid on that date. On Saturday, April 6, 1991, *H* accumulates an additional $50,000 in taxes with respect to wages paid. *H* has a deposit obligation of $105,000 that must be satisfied by Monday, April 8, the next banking day after Saturday, April 6.

Example 2. On Friday, April 12, 1991, the beginning of the April 12–15 eighth-monthly period, *J* accumulates $60,000 in taxes with respect to wages paid and deposits the $60,000 in an authorized depository on that date although a deposit of the $60,000 was not required to be made on that date. On Monday, April 15, 1991, the last day in the April 12–15 eighth-monthly period, *J* accumulates an additional $50,000 in taxes with respect to wages paid. On Monday, April 15, the aggregate amount of taxes accumulated with respect to wages paid during the eighth-monthly period to date totals $110,000. *J* has

a $110,000 deposit obligation that must be satisfied by the next banking day after the $100,000 threshold is reached. Since $60,000 of the $110,000 was already deposited, *J* has a remaining deposit obligation of $50,000 that must be satisfied by Tuesday, April 16, 1991, the next banking day following April 15th.

Example 3. On Monday, April 1, 1991, Employer *K* accumulates $105,000 in taxes with respect to wages paid on that date. On that same day, *K* deposits in an authorized depository $10,000 of the $105,000 accumulated. *K* has a $105,000 deposit obligation that must be satisfied by the next banking day, April 2, 1991. The $10,000 deposited on April 1 cannot be used to reduce the aggregate amount of accumulated taxes with respect to that date. *K* has a remaining deposit obligation of $95,000 that must be satisfied by April 2, 1991.

(*d*) If, with respect to any eighth-monthly period, an employer incurs an obligation to deposit in accordance with §31.6302(c)–1(a)(1)(ii)(*c*), and later, within the same eighth-monthly period, accumulates with respect to wages paid taxes of $3,000 or more, but less than $100,000, an additional deposit is required in accordance with §31.6302(c)–1(a)(1)(ii)(*b*). However, if the amount of taxes is $100,000 or more, an additional deposit is required in accordance with §31.6302(c)–1(a)(1)(ii)(*c*).

Example. On Tuesday, April 2, 1991, Employer *L* accumulates $110,000 in aggregate taxes with respect to wages paid. In accordance with paragraph (a)(1)(ii)(*c*) of this section, *L* has a $110,000 deposit obligation that must be satisfied by Wednesday, April 3, 1991, the next banking day following April 2. On Wednesday, April 3, 1991, *L* accumulates an additional $10,000 in taxes with respect to wages paid that date. In accordance with paragraph (a)(1)(ii)(*b*) of this section, *L* now has an additional deposit obligation of $10,000 that must be satisfied by Monday, April 8, 1991, the 3rd banking day following the close of the April 1–3 eighth-monthly period. The obligation to deposit the $10,000 is separate and distinct from the obligation to deposit the $110,000.

(*e*) An employer will be considered to have satisfied the deposit obligation imposed by paragraphs (a)(1)(ii) (*b*), (*c*) and (*d*) of this section if—

(*1*) The deposit that is made is not less than 95 percent of the aggregate amount of taxes accumulated with respect to wages paid during the period for which the deposit is made, and

(*2*) If the eighth-monthly period (or, in the case of a deposit required under paragraph (a)(1)(ii)(*c*) of this section, the day on which the obligation arose) is in a month other than the last month of the return period, the employer deposits any remaining amount due with the first deposit otherwise required to be made after the fifteenth day of the following month. In the case of the last month of the return period, see §31.6302(c)–1(a)(1)(iv).

(*f*) Any excess of a deposit over the actual taxes required to be deposited to date (overdeposit) during the return period shall be applied in order of time to each of the employer's succeeding deposit obligations within the same return period. In the determination of the aggregate amount of taxes accumulated with respect to wages paid in succeeding deposit periods, the overdeposit does not reduce the aggregate amount accumulated although the overdeposit is credited to the depositor's account.

Example. Employer *M*'s deposit obligation for the eighth-monthly period April 1–3, 1991, is $3,200. On April 8, 1991, three banking days after the close of the eighth-monthly period, *M* deposits $4,000 in an authorized depository, $800 in excess of the amount required to be deposited. During the eighth-monthly period April 4–7, 1991, *M* accumulates $3,750 in taxes with respect to wages paid during such period. Although the $800 overdeposit for the April 1–3 eighth-monthly period is credited to *M*'s account, it may not be used to determine whether a deposit obligation exists for the April 4–7 eighth-monthly period. The two deposit obligations are separate and distinct. Since the amount of taxes accumulated with respect to the April 4–7 eighth-monthly period is an amount greater than $3,000, a deposit is required under paragraph (a)(1)(ii)(*b*) of this section within three banking days after the close of the period. *M* has a remaining deposit obligation of $2,950 ($3,750 accumulated less $800 overdeposit) that must be satisfied by April 10, 1991, three banking days after the close of the period.

(*g*) The periods within which taxes must be deposited under this section are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

(*h*) For purposes of this paragraph (a)(1)(ii), the term ''wages paid'' includes all amounts included in wages, e.g., under section 3121(v) of the Code,

regardless of whether they have actually been paid.

(iii) As used in subdivisions (i) and (ii) of this subparagraph, the term ''taxes'' means—

(a) The employee tax withheld under section 3102,

(b) The employer tax under section 3111, and

(c) The income tax withheld under section 3402, including amounts withheld with respect to qualified State individual income taxes,

Exclusive of taxes with respect to wages for domestic service in a private home of the employer or, if paid before April 1, 1971, wages for agricultural labor. In addition, with respect to wages paid after December 31, 1970, and before April 1, 1971, for agricultural labor, any taxes described in paragraph (a)(2)(ii) of this section which are not required under such subparagraph to be deposited, and any income tax (including qualified State individual income tax) withheld under section 3402 with respect to such wages, shall be deemed to be ''taxes'' on and after April 1, 1971. For the requirements relating to the deposit and payment of withheld tax and with respect to qualified State individual income taxes, see paragraph (d)(3)(iii) of § 301.6361–1 of this chapter (Regulations on Procedure and Administration).

(iv) If the aggregate amount of taxes reportable on a return (other than a return on Form 942) for a return period exceeds the total amount deposited by the employer pursuant to paragraph (a)(1) (i) or (ii) of this section for such return period (*a*) by $500 or more in the case of a return period which ends after December 31, 1980, or (*b*) by more than $200 in the case of a return period which ends after December 31, 1970, and before January 1, 1981, the employer shall, on or before the last day of the first calendar month following the return period, deposit with a Federal Reserve bank or authorized financial institution an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to subdivision (i) or (ii) of this subparagraph for such period. As used in this subdivision, the term ''taxes'' shall have the meaning assigned to such term in subdivision (iii) of this subparagraph, except that the term shall include the taxes referred to in (*a*), (*b*), and (*c*) of such subdivision (iii) of this subparagraph with respect to any wages for domestic service in a private home of the employer which the employer elects to report on a quarterly return other than a quarterly return made on Form 942.

(v) If the aggregate amount of taxes reportable on Form CT–1, the return relating to an employer's railroad retirement tax payments, for a return period exceeds the total amount deposited by the employer pursuant to paragraph (a)(1)(i) of this section for such return period by $100 or more, the employer shall, on or before the last day of the second calendar month following the return period, deposit with a Federal Reserve bank or authorized financial institution an amount equal to the amount by which the taxes reportable on Form CT–1 exceed the total deposits (if any) of such taxes made pursuant to subdivision (i) of this subparagraph for such period.

(2) *Depositary forms*—(i) *In general.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one, remittance of the amount required to be deposited. However, a deposit for a period in one calendar quarter shall be made separately from any deposit for a period in another calendar quarter. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires.

(ii) *Deposits.* Each remittance of amounts required to be deposited under paragraph (a)(1) of this section shall be accompanied by a Federal Tax Deposit form. Such form shall be prepared in accordance with the instructions applicable thereto. The remittance, together with the Federal Tax Deposit form, shall be forwarded to a financial institution authorized as a depositary 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. The timeliness of the deposit will be determined by the date stamped on the Federal

Tax Deposit form 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). Each employer making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return and pay at that time (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(iii) *Time deemed paid.* In general, amounts deposited under subdivision (ii) of this subparagraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year which contains the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(3) *Procurement of prescribed form.* Copies of the Federal Tax Deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the Federal Tax Deposit form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by application therefor to the district director or director of a service center; such application shall supply the employer's name, identification number, address, and the taxable period to which the deposits will relate.

(b) *Exceptions*—(1) *Monthly returns.* The provisions of this section are not applicable with respect to taxes for the month in which the employer receives notice from the district director that returns are 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 this chapter (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 that paragraph (a)(1)(iv) 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 taxes paid in nonconvertible foreign currency pursuant to §301.6316–7 of this chapter (Regulations on Procedure and Administration).

(68A Stat. 775, 917; 26 U.S.C. 6302, 7805; secs. 6302 (c) and 7805 of the Internal Revenue Code of 1954; 68A Stat. 775, 26 U.S.C. 6302 (c); 68A Stat. 917; 26 U.S.C. 7805)

[T.D. 6516, 25 FR 13032, Dec. 20, 1960]

EDITORIAL NOTE: For FEDERAL FEGISTER citations affecting §31.6302(c)–1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§31.6302(c)–2 Use of Government depositories in connection with employee and employer taxes under Railroad Retirement Tax Act for amounts attributable to payments made before January 1, 1993.

(a) *Requirement*—(1) *In general: after 1983 and before April 1, 1991.* In the case of a calendar month which begins after December 31, 1983, and before April 1, 1991, if, at a time prescribed under §31.6302(c)–1(a)(1) (i) or (v) for the deposit of undeposited taxes, the aggregate amount of undeposited employee tax withheld after December 31, 1983, and before April 1, 1991, under section 3202 and employer tax imposed after December 31, 1983, and before April 1, 1991, under section 3221(a) and (b) equals an amount required to be deposited under §31.6302(c)–1(a)(1) (i) or (v) the employer shall deposit the