§ 404.6334(d)–1 Minimum exemption from levy for wages, salary, or other income.

(a) In general. Under section 6331(a), if an individual liable for any tax neglects or refuses to pay such tax within 10 days after notice and demand, the tax may be collected by levy upon property or rights to property belonging to such individual, including amounts payable to or received by him as wages, salary, or other income. Under section 6331(d)(3), a levy upon wages or salary is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied or becomes unenforceable by reason of lapse of time. Under section 6334(a)(9), however, certain amounts payable to or received by an individual as wages or salary for personal services, or as income from other sources, are exempt from levy. Under section 6334(d), amounts so exempt are determined by taking into account (1) the individual’s payroll period, i.e., the basis (whether weekly, biweekly, semimonthly, monthly or otherwise) on which the individual is paid or receives wages, salary, or other income, and (2) the number of certain other persons dependent upon the individual for their support during each such payroll period. Paragraph (b) of this section prescribes rules for determining an individual’s payroll period. Paragraph (c) of this section contains rules relating to the minimum amount of wages, salary, or other income which is exempt from levy pursuant to section 6334(a)(9) and this section.

(b) Remuneration paid on an irregular basis. In the case of a levy on wages, etc. not paid on the basis of an established calendar period regularly used by the employer for payroll purposes (e.g., weekly, biweekly, semimonthly, or monthly), that period shall be used as the individual’s payroll period.

(c) Place for filing. The return required by this section must be filed with the Director, Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19155.
other income next become payable to or are received by him.

(c) Determination of exempt amount. For each payroll period determined pursuant to paragraph (b) of this section, amounts exempt from levy pursuant to section 6334(a)(9) and this section are as follows:

(1) If such payroll period is weekly: $50, plus $15 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(2) If such payroll period is biweekly: $100, plus $30 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(3) If such payroll period is semimonthly: $108.33, plus $32.50 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(4) If such payroll period is monthly: $216.67, plus $65 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(5) If such payroll period is not weekly, biweekly, semimonthly or monthly: a proportionate amount based upon the sum of an annual exemption of $2,600 plus $780 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(d) Dependent exemption—(1) Dependent defined. For purposes of this section, a person is a dependent of an individual for any payroll period of such individual, if—

(i) Over half of such person’s support for such payroll period was received from the individual, and

(ii) Such person is the spouse of the individual, or bears a relationship to the individual specified in section 152(a) (1) through (9) (relating to definition of dependent), and

(iii) Such person is not a minor child of the individual with respect to whom amounts are exempt from levy under section 6334(a)(8) (relating to exemption from levy for judgments for support of minor children) at any time during such payroll period.

For purposes of subdivision (ii) of this subparagraph, “payroll period” shall be substituted for “taxable year” each place it appears in section 152(a)(9).

(2) Claim for dependent exemption. No amount prescribed by paragraph (c) of this section as being exempt from levy for each person who is claimed as a dependent pursuant to this paragraph shall be so exempt unless there is delivered to the employer or other person upon whom notice of levy is served a written statement, signed by the individual seeking such exemption and containing a declaration that it is made under the penalties of perjury, which identifies, by name and by relationship to such individual, each person for whom a dependent exemption is claimed.

(e) Cross references. (1) For the requirement for notice of intent to levy on salary or wages, see section 6331(d)(1).

(2) For the continuing effect of a levy on salary or wages, see section 6331(d)(3).

(3) For other property exempt from levy, see section 6334 and §301.6334–1.

(f) Effective date. The regulations prescribed by this section shall apply with respect to levies on wages, salary, and other income made after February 28, 1977.

(Sec. 6334(d) (90 Stat. 1709; 68A Stat. 917; 26 U.S.C. 6334))

[T.D. 7468, 42 FR 12942, Mar. 2, 1977]

PARTS 405–419 [RESERVED]

PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SOURCE: T.D. 7347, 40 FR 12075, Mar. 17, 1975, unless otherwise noted.

§420.0–1 Certain existing plans may elect new provisions.

(a) In general. The plan administrator (as defined in section 414(g)) of a plan that was in existence on January 1, 1974, may elect to have the provisions of the Code relating to participation, vesting, funding, and form of benefit (as in effect from time to time) apply to a plan year selected by the plan administrator which begins after September 2, 1974, but before the otherwise applicable effective dates determined under section 1017 (b) or (c), 1021, or