§ 31.3402(d)–1

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$6.25 a day) by 50 (number of days elapsed); and the amount of tax to be withheld with respect to the commission paid on June 19 is $54.60, which amount is obtained by multiplying $1.95 (tax under the appropriate wage bracket table for a daily or miscellaneous payroll period where wages are at least $15 but less than $15.50 a day) by 28 (number of days elapsed).

(d) Period or elapsed time less than 1 week. (1) It is the general rule that if wages are paid for a payroll period or other period of less than 1 week, the tax to be deducted and withheld under the wage bracket method shall be the amount computed for a daily payroll period, or for a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period, or other period, for which such wages are paid. In the case of wages paid without regard to any period, if the elapsed time computed as provided in paragraph (c) of this section is less than 1 week, the same rule is applicable.

Example 1. On May 14, 1971, an employee who has a daily payroll period is paid wages of $15 per day. The employee has in effect a withholding exemption certificate indicating that he claims one withholding exemption and that he is not married. Under the applicable table for a daily payroll period for an employee who is not married, the amount of tax to be deducted and withheld from each such payment of wages is $1.95.

Example 2. An employee works for a certain employer on 4 consecutive days for which he is paid wages totalling $60 on July 25, 1971. The employee has in effect a withholding exemption certificate claiming two withholding exemptions and indicating that he is married. The amount of tax to be deducted and withheld under the wage bracket method is $5.60 ($1.40 × 4).

(2) If the payroll period, other period or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, under certain conditions, elect to deduct and withhold the tax determined by the application of the wage table for a weekly payroll period to the aggregate of the wages paid to the employee during the calendar week. The election to use the weekly wage table in such cases is subject to the limitations and conditions prescribed in Circular E with respect to employers using the percentage method in similar cases.

(3) As used in this paragraph the term “calendar week” means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(e) Rounding off of wage payment. In determining the amount to be deducted and withheld under the wage bracket method the wages may, at the election of the employer, be computed to the nearest dollar, provided such wages are in excess of the highest wage bracket of the applicable table. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1.00. Thus, if the payroll period of an employee is weekly and the wage payment of such employee is $255.49, the employer may compute the tax on the excess over $200 as if the excess were $55 instead of $55.49. If the weekly wage payment is $255.50, the employer may, in computing the tax, consider the excess over $200 to be $56 instead of $55.50.

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and (m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))


§ 31.3402(d)–1 Failure to withhold.

If the employer in violation of the provisions of section 3402 fails to deduct and withhold the tax, and thereafter the income tax against which the tax under section 3402 may be credited is paid, the tax under section 3402 shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties or additions to the tax applicable in respect of such failure to deduct and withhold. The employer will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under section 3402 may be credited has been paid. See §31.3403–1, relating to liability for tax.