

customer or service agreement described in §31.3504-2(b)(2) between a CPEO and a client must—

(i) In the case of a contract that is a CPEO contract—

(A) Contain the name and EIN of the CPEO reporting, withholding, and paying any applicable federal employment taxes with respect to any remuneration paid to individuals covered by the contract or agreement;

(B) Require the CPEO to provide to the customer the notices and information required by paragraph (g)(4) of this section;

(C) Describe the information that the CPEO will provide that is necessary for the customer to claim the credits specified in paragraph (e)(2) of this section; and

(D) Require the CPEO to notify the customer that the customer may also be liable for federal employment taxes on remuneration remitted by the CPEO to covered employees if the work sites at which they perform services do not (or ever cease to) meet the 85 percent threshold described in §301.7705-1(b)(17) of this chapter; and

(ii) In the case of a service agreement described in §31.3504-2(b)(2) that is not a CPEO contract (and thus the individuals covered by that contract are not covered employees), or if this section does not apply to the contract under paragraph (f) of this section, notify, or be accompanied by a notification to, the client that the service agreement or contract is not covered by section 3511 and does not alter the client's liability for federal employment taxes on remuneration remitted by the CPEO to the employees covered by the service agreement or contract.

(h) *Penalties and additions to tax*—(1) *In general.* A CPEO that is treated as an employer of a covered employee under this section and that is required to meet the reporting requirements of an employer is subject to the same penalties and additions to tax as an employer with respect to such reporting requirements, including, but not limited to, penalties and additions to tax under sections 6651, 6656, 6672, 6721, 6722, and 6723.

(2) *Failures to timely make reports required under section 3511.* CPEOs are subject to penalty under section 6652(n)

with respect to reports required to be made to the IRS in paragraphs (g)(1) and (3) of this section and reports required to be made to customers in paragraph (g)(4) of this section.

(3) *Failures to attach Schedule R.* A CPEO is subject to penalty under section 6652(n) for failure to attach Schedule R (or successor form) to Forms 941, 940, or 943 as required by paragraph (g)(3)(ii) of this section. A CPEO is also subject to penalty under section 6723 for failure to include the EIN of each customer on Schedule R of Form 941, 940, or 943. See §301.6723-1 of this chapter for the application of the section 6723 penalty in the case of multiple failures on a single document.

(4) *Failures to file on magnetic media.* With respect to the requirement in paragraph (g)(3)(ii) of this section that a CPEO must file Forms 940, 941, and 943, along with all required schedules, on magnetic media, a failure to file on magnetic media does not constitute a failure to file for purposes of section 6651(a)(1) nor does it constitute a failure to make a report for purposes of section 6652(n). Rather, the requirement to file Forms 940, 941, and 943 on magnetic media is a condition of maintaining certification as a CPEO.

(i) *Applicability date.* The rules in this section apply on and after May 3, 2019.

[T.D. 9869, 84 FR 24379, May 28, 2019]

Subpart G—Administrative Provisions of Special Application to Employment Taxes (Selected Provisions of Subtitle F, Internal Revenue Code of 1954)

§ 31.6001-1 Records in general.

(a) *Form of records.* The records required by the regulations in this part shall be kept accurately, but no particular form is required for keeping the records. Such forms and systems of accounting shall be used as will enable the district director to ascertain whether liability for tax is incurred and, if so, the amount thereof.

(b) *Copies of returns, schedules, and statements.* Every person who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule,

statement, or other document, shall keep such copy as a part of his records.

(c) *Records of claimants.* Any person (including an employee) who, pursuant to the regulations in this part, claims a refund, credit or abatement, shall keep a complete and detailed record with respect to the tax, interest, addition to the tax, additional amount, or assessable penalty to which the claim relates. Such record shall include any records required of the claimant by paragraph (b) of this section and by §§ 31.6001-2 to 31.6001-5, inclusive, which relate to the claim.

(d) *Records of employees.* While not mandatory (except in the case of claims), it is advisable for each employee to keep permanent, accurate records showing the name and address of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, the information with respect to himself which is required by the regulations in this subpart to be kept by employers, and the statements furnished in accordance with the provisions of § 31.6051-1.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers, and shall at all times be available for inspection by such officers.

(2) Except as otherwise provided in the following sentence, every person required by the regulations in this part to keep records in respect of a tax (whether or not such person incurs liability for such tax) shall maintain such records for at least four years after the due date of such tax for the return period to which the records relate, or the date such tax is paid, whichever is the later. The records of claimants required by paragraph (c) of this section shall be maintained for a period of at least four years after the date the claim is filed.

(f) *Cross reference.* See §§ 31.6001-2 to 31.6001-5, inclusive, for additional records required with respect to the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, the Federal Unemployment Tax act, and

the collection of income tax at source on wages, respectively.

§ 31.6001-2 Additional records under Federal Insurance Contributions Act.

(a) *In general.* (1) Every employer liable for tax under the Federal Insurance Contributions Act shall keep records of all remuneration, whether in cash or in a medium other than cash, paid to his employees after 1954 for services (other than agricultural labor which constitutes or is deemed to constitute employment, domestic service in a private home of the employer, or service not in the course of the employer's trade or business) performed for him after 1936. Such records shall show with respect to each employee receiving such remuneration—

(i) The name, address, and account number of the employee and such additional information with respect to the employee as is required by paragraph (c) of § 31.6011(b)-2 when the employee does not advise the employer what his account number and name are as shown on an account number card issued to the employee by the Social Security Administration.

(ii) The total amount and date of each payment of remuneration (including any sum withheld therefrom as tax or for any other reason) and the period of services covered by such payment.

(iii) The amount of each such remuneration payment which constitutes wages subject to tax. See §§ 31.3121(a)-1 to 31.3121(a)(12)-1, inclusive.

(iv) The amount of employee tax, or any amount equivalent to employee tax, collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected. See paragraph (b) of § 31.3102-1 for provisions relating to collection of amounts equivalent to employee tax.

(v) If the total remuneration payment (paragraph (a)(1)(ii) of this section) and the amount thereof which is taxable (paragraph (a)(1)(iii) of this section) are not equal, the reason therefor.

(2) Every employer shall keep records of the details of each adjustment or settlement of taxes under the Federal