

T.D. 8909

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 31

Federal Employment Tax Deposits—*De Minimis* Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the deposit of Federal employment taxes. The regulations change the *de minimis* deposit rule for quarterly and annual return

periods. The regulations affect taxpayers required to make deposits of Federal employment taxes. The text of the temporary regulations also serves as the text of the proposed regulations (REG-114423-00) set forth in the notice of proposed rulemaking on page 604.

DATES: *Effective date:* These regulations are effective Wednesday, December 6, 2000.

Applicability date: For dates of applicability, see §31.6302-1T(f)(4).

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren, (202) 622-4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 31, Employment Taxes and Collection of Income Tax at the Source. Section 31.6302-1(f)(4) provides that if the total amount of accumulated employment taxes for a return period is less than \$1,000 and the amount is fully deposited or remitted with a timely filed return for the quarter, the amount deposited or remitted will be deemed to be timely deposited.

The temporary regulations change the \$1,000 threshold to \$2,500. Thus, a taxpayer that has accumulated employment taxes of less than \$2,500 for a return period (quarterly or annual, as the case may be) does not have to make deposits but may remit its full liability with a timely filed return for the return period.

The *de minimis* threshold is being raised as part of the IRS and Treasury's continued efforts to reduce burden on the small business community. On June 16, 1998, temporary regulations (T.D. 8771, 1998-2 C.B. 72) that raised the *de minimis* threshold from \$500 to \$1,000 were published in the **Federal Register** (63 F.R. 32735). This increase of the threshold to \$1,000 was made final on June 17, 1999, (T.D. 8822, 1999-2 C.B. 5) in regulations published in the **Federal Register** (64 F.R. 32408).

Having conducted further study, the IRS now seeks additional changes in deposit requirements to reduce taxpayer burden. The IRS and Treasury have determined that another increase in the *de*

minimis threshold is a simple and straightforward step that will reduce burden on small businesses.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of the regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 31.6302-1T also issued under 26 U.S.C. 6302(a) and (c). * * *

Par. 2. In §31.6302-1, a new sentence is added at the end of paragraph (f)(4) to read as follows:

§31.6302-1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act

(FICA) attributable to payments made after December 31, 1992.

* * * * *

(f) * * *

(4) * * * For guidance regarding *de minimis* amounts for quarterly or annual return periods beginning on or after January 1, 2001, see §31.6302-1T(f)(4).

* * * * *

Par. 3. Section 31.6302-1T is added to read as follows:

§31.6302-1T Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992 (temporary).

(a) through (f)(3). [Reserved] For further guidance, see §31.6302-1(a) through (f)(3).

(f)(4) *De Minimis rule.* For quarterly and annual return periods beginning on or after January 1, 2001, if the total amount of accumulated employment taxes for the return period is less than \$2,500 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

(f)(5) through (n). [Reserved] For further guidance, see §31.6302-1(f)(5) through (n).

Charles O. Rossotti,
Commissioner of Internal Revenue.

Approved November 21, 2000.

Jonathan Talisman,
Assistant Secretary for Tax Policy.

(Filed by the Office of the Federal Register on December 5, 2000, 8:45 a.m., and published in the issue of the Federal Register for December 6, 2000, 65 F.R. 76152)