

§ 142.52 District-wide and multiple district acceptance of Line Release.

(a) *District-wide processing.* If a C-4 Code has been approved by a District Director, the C-4 Code may be used at any Line Release site in the district.

(B) *Multiple district processing.* In order for a C-4 Code approved in one district to be used in another district, the entry filer must submit an application to the District Director of the other district. While uniform criteria shall be applied to approving similar shipments for Line Release in all districts, a District Director may exercise his discretion to deny Line Release in a district even though a similar shipment may be approved in another district.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178, Customs Regulations (19 CFR part 178) continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by inserting the following in the appropriate numerical sequence according to the section number under the column indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR section	Description	OMB control No.
§ 142.42	Line release application.	1515-0183

Approved: September 18, 1992.

Carol Hallett,
Commissioner of Customs.

Peter K. Nunez,
Assistant Secretary of Treasury.
[FR Doc. 92-23238 Filed 9-23-92; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Social Security Administration****20 CFR Part 404**

RIN 0960-AD15

Federal Old-Age, Survivors and Disability Insurance Benefits; Revision of Appendices, Tables, and Lists

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: In these final regulations, we update various appendices, tables, and

lists in regulations on Federal old-age, survivors, and disability insurance. All update information is based on determinations by the Secretary of Health and Human Services previously published in the *Federal Register* pursuant to statutory authority.

EFFECTIVE DATES: September 24, 1992. The determinations on which these regulations are based were effective on the dates they were published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Phyllis E. Green, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-9822.

SUPPLEMENTARY INFORMATION: Part 404 of 20 CFR contains various appendices, tables, and lists that show quarter of coverage amounts, average of total wages, benefit formulas, minimum Social Security earnings to qualify for a year of coverage after 1950 for purposes of the special minimum primary insurance amount, special minimum primary insurance amount and related maximum family benefits, percentage of increases in the primary insurance amount, and the contribution and benefit base amounts. The appendices, tables, and lists in the CFR have not been updated for several years and, therefore, do not contain current information.

Revision of Information

In these final regulations, we revise various appendices, tables, and lists in 20 CFR part 404 by using information that we previously published in the *Federal Register*.

1. The appendix to subpart B is updated by adding quarter of coverage amounts for the years 1988 through 1992.

2. The appendices to subpart C are updated by revising appendices I, II, IV, V, VI, and VII by adding information for additional years. Appendices II and VI are reformatted for conciseness and to improve readability. The heading of Appendix IV is revised and the chart reformatted to reflect more accurately minimum Social Security earnings needed to qualify for a year of coverage after 1950.

Due to the amendment of section 215(i)(4) of the Act by section 12105 of Public Law 99-272, updated benefit amounts shown in appendix III are no longer required to be published in the *Federal Register*. Therefore, appendix III is not updated with current benefit amounts. However, the introductory paragraphs to appendix III explain how to compute the current benefit amount using the table shown and the percentage of increase in appendix VI.

3. The contribution and benefit base amounts shown in subpart E at § 404.429(c)(1) and in subpart K at § 404.1047 and § 404.1096(b) are updated.

Federal Register References

The dollar amounts, benefit formulas, benefit tables, and percentage amounts for the periods shown in this update of appendices, tables, and lists are contained in various notices published in the *Federal Register* as follows:

FR Reference: 53 FR 43932 (10/31/88), 54 FR 45801 (10/31/89), 54 FR 53751 (12/29/89), 55 FR 45856 (10/31/90), 56 FR 55325 (10/25/91).

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures in these regulations because we are only reflecting information published in the *Federal Register* which is not discretionary and which does not involve the setting of policy. Therefore, opportunity for prior public comment is unnecessary and these amendments are being issued as final rules.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. These final regulations do not result in additional costs or savings or otherwise meet the threshold criteria of Executive Order 12291 because they merely update the appendices, tables, and lists with information previously published in the *Federal Register* in accordance with various provisions of the Act. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance: Program Nos. 93.802, Social Security Disability Insurance; 93.803, Social Security Retirement Insurance; 93.804 Social Security Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Reporting and recordkeeping requirements, Old-Age, Survivors and disability insurance.

Dated: June 11, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: July 22, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

For the reasons set out in the preamble, subparts B, C, E, and K of part 404 in chapter III of title 20 of the Code of Federal Regulations are amended as follows:

1. The authority citation for part 404, subpart B continues to read as follows:

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 1302.

2. The appendix to subpart B is amended by adding the amounts for 1988 through 1992 to the table to read as follows:

Appendix to Subpart B of Part 404—Quarter of Coverage Amounts for Calendar Years After 1978

Calendar year	Amount needed
1988.....	\$470
1989.....	500
1990.....	520
1991.....	540
1992.....	570

3. The authority citation for part 404, subpart C continues to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 1102 of the Social Security Act; 42 U.S.C. 402(a), 405(a), 415, and 1302.

4. The appendices to subpart C are amended as follows:

A. Appendix I is amended by adding amounts for 1986 through 1990 to the table to read as follows:

Appendix I to Subpart C of Part 404—Average of the Total Wages for Years After 1950

Calendar year	Average of the total wages
1986.....	17,321.82
1987.....	18,426.51
1988.....	19,334.04
1989.....	20,099.55
1990.....	21,027.98

B. Appendix II is revised to read as follows:

Appendix II of Subpart C of Part 404—Benefit Formulas Used With Average Indexed Monthly Earnings

As explained in § 404.212, we use one of the formulas below to compute your primary insurance amount from your average indexed monthly earnings (AIME). To select the appropriate formula, we find in the left-hand column the year after 1978 in which you reach age 62, or become disabled, or die before age 62. The benefit formula to be used in computing your primary insurance amount is on the same line in the right-hand columns. For example, if you reach age 62 or become disabled or die before age 62 in 1979, then we compute 90 percent of the first \$180 of AIME, 32 percent of the next \$905 of AIME, and 15 percent of AIME over \$1,085. After we figure your amount for each step in the formula, we add the amounts. If the total is not already a multiple of \$0.10, we round the total as follows:

(1) For computations using the benefit formulas in effect for 1979 through 1982, we round the total upward to the nearest \$0.10, and

(2) For computations using the benefit formulas in effect for 1983 and later, we round the total downward to the nearest \$0.10.

BENEFIT FORMULAS

Year you reach age 62 ¹	90 per cent of the first—	plus 32 percent of the next—	plus 15 percent of AIME over—
1979.....	\$180	\$905	\$1,085
1980.....	194	977	1,171
1981.....	211	1,063	1,274
1982.....	230	1,158	1,388

BENEFIT FORMULAS—Continued

Year you reach age 62 ¹	90 per cent of the first—	plus 32 percent of the next—	plus 15 percent of AIME over—
1983.....	254	1,274	1,528
1984.....	267	1,345	1,612
1985.....	280	1,411	1,691
1986.....	297	1,493	1,790
1987.....	310	1,556	1,866
1988.....	319	1,601	1,922
1989.....	339	1,705	2,044
1990.....	356	1,789	2,145
1991.....	370	1,860	2,230
1992.....	387	1,946	2,333

¹ Or become disabled or die before age 62.

C. Appendix IV is revised to read as follows:

Appendix IV of Subpart C of Part 404—Earnings Needed for a Year of Coverage After 1950

MINIMUM SOCIAL SECURITY EARNINGS TO QUALIFY FOR A YEAR OF COVERAGE AFTER 1950 FOR PURPOSES OF THE—

Year	Special minimum primary insurance amount	Benefit computations described in section 404.213(d) ²
1951-1954.....	\$900	\$900
1955-1958.....	1,050	1,050
1959-1965.....	1,200	1,200
1966-1967.....	1,650	1,650
1968-1971.....	1,950	1,950
1972.....	2,250	2,250
1973.....	2,700	2,700
1974.....	3,300	3,300
1975.....	3,525	3,525
1976.....	3,825	3,825
1977.....	4,125	4,125
1978.....	4,425	4,425
1979.....	4,725	4,725
1980.....	5,100	5,100
1981.....	5,550	5,550
1982.....	6,075	6,075
1983.....	6,675	6,675
1984.....	7,050	7,050
1985.....	7,425	7,425
1986.....	7,875	7,875
1987.....	8,175	8,175
1988.....	8,400	8,400
1989.....	8,925	8,925
1990.....	9,525	9,525
1991.....	5,940	9,900
1992.....	6,210	10,350

² Applies only to certain individuals with pensions from noncovered employment.

Note: For 1951-78, the amounts shown are 25 percent of the contribution and benefit base (the contribution and benefit base is the same as the annual wage limitation as shown in § 404.1047) in effect. For years after 1978, however, the amounts are 25 percent of what the contribution and benefit base would have been if the 1977 Social Security Amendments had not been enacted, except, for special minimum benefit purposes, the applicable percentage is 15 percent for years after 1990.

D. Appendix V is amended by adding tables for December 1987, December 1988, December 1989, December 1990, and December 1991 to read as follows:

Appendix V of Subpart C of Part 404—Computing the Special Minimum Primary Insurance Amount and Related Maximum Family benefits

DECEMBER 1987

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11.....	\$20.20	\$30.40
12.....	40.10	60.40
13.....	60.30	90.70
14.....	80.30	120.70
15.....	100.40	150.70
16.....	120.60	181.20
17.....	140.70	211.20
18.....	160.80	241.40
19.....	180.90	271.50
20.....	200.80	301.50
21.....	221.20	331.90
22.....	241.20	362.00
23.....	261.50	392.50
24.....	281.50	422.50
25.....	301.50	452.40
26.....	321.80	483.00
27.....	341.90	513.10
28.....	361.90	543.00
29.....	381.90	573.00
30.....	402.00	603.30

DECEMBER 1988

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11.....	\$21.00	\$31.60
12.....	41.70	62.80
13.....	62.70	94.30
14.....	83.50	125.50
15.....	104.40	156.70
16.....	125.40	188.40
17.....	146.30	219.60
18.....	167.20	251.00
19.....	188.10	282.30
20.....	208.80	313.50
21.....	230.00	345.10
22.....	250.80	376.40
23.....	271.90	408.20
24.....	292.70	439.40
25.....	313.50	470.40
26.....	334.60	502.30
27.....	355.50	533.60
28.....	376.30	564.70
29.....	397.10	596.20
30.....	418.00	627.40

DECEMBER 1989

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11.....	\$21.90	\$33.00
12.....	43.60	65.70
13.....	65.60	98.70
14.....	87.40	131.30

DECEMBER 1989—Continued

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
15.....	109.30	164.00
16.....	131.20	197.20
17.....	153.10	229.90
18.....	175.00	262.70
19.....	196.90	295.50
20.....	218.60	328.20
21.....	240.80	361.30
22.....	262.50	394.00
23.....	284.60	427.30
24.....	306.40	460.00
25.....	328.20	492.50
26.....	350.30	525.90
27.....	372.20	558.60
28.....	393.90	591.20
29.....	415.70	624.20
30.....	437.60	656.80

DECEMBER 1990

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11.....	\$23.00	\$34.70
12.....	45.90	69.20
13.....	69.10	104.00
14.....	92.10	138.30
15.....	115.20	172.80
16.....	138.20	207.80
17.....	161.30	242.30
18.....	184.40	276.80
19.....	207.50	311.40
20.....	230.40	345.90
21.....	253.80	380.80
22.....	276.60	415.20
23.....	299.90	450.30
24.....	322.90	484.80
25.....	345.90	519.00
26.....	369.20	554.20
27.....	392.20	588.70
28.....	415.10	623.10
29.....	438.10	657.90
30.....	461.20	692.20

DECEMBER 1991

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11.....	\$23.80	\$35.90
12.....	47.50	71.70
13.....	71.600	107.80
14.....	95.50	143.40
15.....	119.40	179.10
16.....	143.30	215.40
17.....	167.20	251.20
18.....	191.20	287.00
19.....	215.10	322.90
20.....	238.90	358.60
21.....	263.10	394.80
22.....	286.80	430.50
23.....	310.90	466.90
24.....	334.80	502.70
25.....	358.60	538.20
26.....	382.80	574.70
27.....	406.70	610.40
28.....	430.40	646.10
29.....	454.30	682.20
30.....	478.20	717.80

E. Appendix VI is revised to read as follows:

Appendix VI of Subpart C of Part 404—Percentage of Automatic Increases in Primary Insurance Amounts Since 1978

Effective date	Percentage increase
06/79.....	9.9
06/80.....	14.3
06/81.....	11.2
06/82.....	7.4
12/83.....	3.5
12/84.....	3.5
12/85.....	3.1
12/86.....	1.3
12/87.....	4.2
12/88.....	4.0
12/89.....	4.7
12/90.....	5.4
12/91.....	3.7

F. Appendix VII is amended by adding yearly amounts for 1988 through 1992 to read as follows:

Appendix VII of Subpart C of Part 404—"Old-Law" Contribution and Benefit Base

Year	Amount
1988.....	33,600
1989.....	35,700
1990.....	38,100
1991.....	39,600
1992.....	41,400

5. The authority citation for part 404, subpart E continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404(a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

6. Section 404.429(c)(1) is amended by adding yearly amounts for 1988 through 1992 to the table to read as follows:

§ 404.429 Earnings; defined.

(c) * * * * *
(1) Remuneration that exceeds the calendar year amount as follows:

Calendar year	Amount
1988.....	45,000
1989.....	48,000
1990.....	51,300
1991.....	53,400
1992.....	55,500

7. The authority citation for part 404, subpart K is revised to read as follows:

Authority: Secs. 205(a), 209, 210, 211, 229(a), 230, 231, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 409, 410, 411, 429(a), 430, 431, and 1302; sec. 1704 of Pub. L. 99-514; 100 Stat. 2779; sec. 8013 of Pub. L. 100-647; 102 Stat. 3789.

8. Section 404.1047 is amended by adding amounts for 1988 through 1992 to read as follows:

§ 404.1047 Annual wage limitation.

Calendar year	Wage limitation
1988	45,000
1989	48,000
1990	51,300
1991	53,400
1992	55,500

9. Section 404.1096 is amended by adding amounts for 1988 through 1992 to the table to read as follows:

§ 404.1096 Self-employment income.

Taxable year	Amount
Beginning in 1988	45,000
Beginning in 1989	48,000
Beginning in 1990	51,300
Beginning in 1991	53,400
Beginning in 1992	55,500

[FR Doc. 92-23101 Filed 9-23-92; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203 and 234

(Docket No. N-92-3479; FR-3307-N-01)

Loan and Mortgage Insurance; Changes to the Maximum Loan and Mortgage Limits for Single Family Residences and Condominiums

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum loan and mortgage limits for high-cost areas.

SUMMARY: This Notice amends the list of areas eligible for "high-cost" loan and mortgage limits under certain of HUD's insuring authorities under the National Housing Act (NHA) by increasing the mortgage limits for Mathews and Middlesex Counties, VA; Charlotte County, FL; Bartholomew County, IN; Bonneville County, ID; Cowlitz, Jefferson, and Skagit Counties, WA and the Olympia, WA MSA; and by adding to the list of high cost areas: Garrett County, MD; Iredell County, NC; and Wasatch County, UT. Loan and mortgage limits are adjusted in an area when the Secretary determines that middle-and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: September 24, 1992.

FOR FURTHER INFORMATION CONTACT:

For single family: Morris Carter, Director, Single Family Development Division, room 9272; telephone (202) 708-2700. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, room 9158; telephone (202) 708-2880; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act, 12 U.S.C. 1703 and 1709 *et. seq.*, authorizes HUD to insure loans and mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and manufactured homes and lots in combination. The NHA, as

amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum loan and mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, section 214 of the NHA provides for special high-cost limits for insured mortgages in Alaska, Guam, Hawaii, and the Virgin Islands.

The last comprehensive list of high-cost areas was published on August 1, 1991 (56 FR 36980), listing all areas eligible for "high-cost" loan and mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and the applicable limits for each area. Amendments to the annual listing were published on December 27, 1991 (56 FR 66975) and April 13, 1992 (57 FR 12715).

This Document

Today's document increases high-cost loan and mortgage limits for Mathews and Middlesex Counties, VA; Charlotte County, FL; Bartholomew County, IN; Bonneville County, ID; Cowlitz, Jefferson, and Skagit Counties, WA and the Olympia, WA MSA; and adds high-cost loan and mortgage limits for Garrett County, MD; Iredell County, NC; and Wasatch County, UT.

This document lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under sections 203(b), 234(d) and 214 of the National Housing Act. For guidance concerning the effect of these revised limits on insurance maximums applicable to manufactured homes and lots, please consult the annual list of high cost areas published on August 1, 1991 (56 FR 36980).

List of Subjects

24 CFR Part 203

Hawaiian Natives, Home Improvement, Loan Programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department is publishing the revised dollar limitations as follows:

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Region III—HUD Field Office—Richmond				
Mathews County, VA	\$88,300	\$99,450	\$120,800	\$139,400

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Middlesex County, VA	96,400	108,600	131,950	152,250
HUD Field Office—Baltimore				
Garrett County, MD	85,500	96,300	117,000	135,000
Region IV—HUD Field Office—Greensboro				
Iredell County, NC	78,700	88,600	107,700	124,250
Region IV—HUD Field Office—Coral Gables				
Charlotte County, FL	75,050	84,500	102,700	118,500
Region V—HUD Field Office—Indianapolis				
Bartholomew County, IN	85,000	95,750	116,350	134,250
Region VIII—HUD Field Office—Salt Lake City				
Wasatch County, UT	74,000	83,450	101,400	117,000
Region X—HUD Field Office—Boise				
Bonneville County, ID	76,000	85,600	104,000	120,000
HUD Field Office—Seattle				
Cowlitz County, WA	75,250	84,750	103,000	118,850
Jefferson County, WA	124,875	140,600	170,200	197,950
Skagit County, WA	103,550	116,600	141,700	163,500
Olympia, WA MSA Thurston County	95,900	108,000	131,200	151,400

Dated: September 21, 1992.

Arthur J. Hill,

Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 92-23226 Filed 9-23-92; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 8436]

RIN 1545-AP91

Deposits of Employment Taxes

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal employment taxes (including railroad retirement taxes). These final regulations replace the current employment tax deposit system with a new system that is significantly simpler and easier to understand and apply. The new system will reduce burden and compliance costs for employers, particularly small businesses.

DATES: The final regulations are

effective January 1, 1993, and apply to the deposit of employment taxes attributable to payments made after December 31, 1992. A special transitional rule for one year is provided for all employers.

FOR FURTHER INFORMATION CONTACT:
Vincent G. Surabian, telephone (202)
622-6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On Monday, May 18, 1992, the Internal Revenue Service published in the *Federal Register* (57 FR 21045) proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 6302 of the Internal Revenue Code. Written comments responding to the notice were received and a public hearing was held on August 3, 1992. After consideration of all written and oral comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury Decision.

Explanation of Provisions

In General

A. Current Tax Deposit System

The current rules relating to the deposit

of Federal employment taxes (including railroad retirement taxes) are complicated and confusing to many taxpayers. The existing rules require employers to monitor and accumulate employment taxes from payday to payday until one of four separate deposit rules (quarterly, monthly, eighth-monthly, or daily) is triggered. The eighth-monthly deposit rule is particularly complicated. In addition, employers may have difficulty determining when deposits are due and can inadvertently switch from one rule to another within the same calendar quarter. The problems associated with the current system frequently result in the imposition of penalties for inadvertent failures to make timely deposits.

B. New Tax Deposit System

The new regulations simplify the employment tax deposit system, replacing the current system with a new system that is easier to understand and that provides employers with up-front certainty in determining their deposit obligations. The new system will reduce burden and compliance costs for employers, particularly small businesses.

The new tax deposit regulations treat an employer in one of two ways. An

employer is either a "monthly depositor" or a "semi-weekly depositor."

An employer's status as a monthly depositor or a semi-weekly depositor will be known before the beginning of each calendar year and will be determined annually, based on the employer's employment tax reporting history. The determination is based on the amount of employment taxes the employer reported for the one-year lookback period ended the preceding June 30.

If the employer reported employment taxes of \$50,000 or less during the lookback period, the employer is a monthly depositor and generally must deposit employment taxes on a monthly basis during the calendar year. Under the Monthly rule, each month's taxes are required to be deposited on or before the 15th day of the following month. This rule is similar to the manner in which employers pay other monthly bills and reflects general commercial practices.

An employer that reported employment taxes of more than \$50,000 during the lookback period is a semi-weekly depositor. Semi-weekly depositors generally are required to deposit their taxes on or before two specified days of the week—Wednesdays or Fridays—depending on the timing of their payrolls.

The final regulations contain special rules to address some practical concerns of employers and to provide relief in certain cases. One rule provides relief in the form of a safe harbor for employers that deposit less than their full amount of employment taxes (shortfall). For this purpose, an employer meets the safe harbor if the shortfall does not exceed the greater of \$100 or 2% of the employer's deposit obligation. Even if this safe harbor is not met, employers that deposit less than the full amount of their deposit obligation can have penalties abated under section 6656 if they show that their failure was due to reasonable cause. A second rule provides that employers who have less than \$500 in employment taxes during a return period can remit their taxes with their returns, rather than separately depositing the taxes.

The final regulations incorporate the present statutory requirement that an employer that accumulates employment taxes of \$100,000 or more during a deposit period (either a monthly or semi-weekly period) must deposit those taxes by the next banking day.

The final regulations will be effective for the deposit of employment taxes attributable to payments made after December 31, 1992. A special transitional rule is provided for an

additional year to December 31, 1993 for all employers.

Comments on Specific Issues

A. Monthly vs. Semi-Weekly Threshold

A number of commentators suggested increasing the dollar threshold for determining whether an employer is a monthly depositor or a semi-weekly depositor. The proposed regulations specified a threshold of \$12,000 per quarter. The final regulations adopt an annual threshold and increase the threshold to \$50,000 per year.

B. Annual Determination and Lookback Period

Under the proposed regulations, employers were required to determine their deposit history each quarter by reference to a rolling lookback period. Some commentators, including the Small Business Administration (the SBA), indicated a rolling lookback period causes difficulties for employers that deposit disproportionately large amounts of taxes during one or more quarters due to the seasonal nature of their businesses or year-end bonuses. A number of commentators suggested that the deposit rules would be simpler if the employer's status as a monthly or semi-weekly depositor were determined annually (rather than quarterly) and the lookback period were a fixed twelve-month period.

Commentators also indicated that employers should have up-front certainty about their depositor status. In particular, the commentators suggested that depositor status be determined several months prior to the beginning of the calendar year so that employers would have adequate time to adjust, if need be, their deposit obligations. Further, the commentators recommended that the same depositor status generally apply or the entire calendar year. The final regulations adopt these suggestions.

Under the final regulations, an employer's status as either a monthly depositor or semi-weekly depositor will be determined annually, prior to the beginning of each calendar year. The lookback period for each calendar year will be the twelve-month period ended the preceding June 30. Thus, employers will be able to determine their status several months prior to the beginning of each year and once determined the status will generally continue for the entire calendar year.

For example, an employer that reported \$50,000 or less in employment taxes for the period July 1, 1991 through June 30, 1992 generally would be a monthly depositor during calendar year

1993. An employer who reported more than \$50,000 in employment taxes for that lookback period would be a semi-weekly depositor during 1993.

Under the final regulations, a new employer will be a monthly depositor until it reports more than \$50,000 of employment taxes for the prior July 1 through June 30 lookback period, or until it accumulates \$100,000 or more of employment taxes on any day during the month.

C. IRS Notification of Status

The IRS will notify employers prior to the beginning of each calendar year whether they are a monthly depositor or a semi-weekly depositor. This notification will provide employers with additional up-front certainty in determining their deposit obligations.

D. Semi-Weekly Rule

A number of commentators suggested that the Semi-Weekly Rule in the proposed regulations (Tuesday-Friday rule) was too burdensome. The SBA commented that employers with Friday payrolls would not have three banking days to deposit their employment taxes. These commentators suggested a rule that would require taxpayers to deposit employment taxes within three banking days after payroll. Other commentators suggested a Tuesday-Thursday rule or other rules to allow semi-weekly depositors more time to make deposits after payroll.

1. *In General.* The final regulations take these suggestions into account and provide additional relief for semi-weekly depositors. The final regulations change the Semi-Weekly Rule so that deposits are due on or before Wednesday or Friday of each week, depending on the timing of the employer's payroll. This modifies the proposed rule and allows additional time for semi-weekly depositors to make deposits.

2. *Three Banking Days After Payroll Issue.* The Semi-Weekly rule will automatically be satisfied if an employer deposits employment taxes within three banking days after payroll. The final regulations, however, do not adopt an explicit three banking days after payroll rule because that could result in an employer having deposit obligations on more than two days in single week. An important simplification objective of the final regulations was to limit deposit obligations for semi-weekly depositors to at most two days a week.

E. Special Relief for Non-Banking Days

The Final regulations retain the rule that extends the deposit timetable when

the deposit obligation falls on a non-banking day. To provide additional relief for semi-weekly depositors, the final regulations provide that semi-weekly depositors will have a minimum of three banking days after the end of the semi-weekly period to deposit their taxes. Therefore, a semi-weekly depositor with a Friday payroll will have until the following Thursday to deposit taxes if the Monday, Tuesday or Wednesday following payday is a holiday and not a banking day.

F. One-Day (\$100,000) Rule

The final regulations incorporate the statutory requirement that employers that accumulate employment taxes of \$100,000 or more during any deposit period (either monthly or semi-weekly) must deposit those taxes on the first banking day after the \$100,000 threshold is reached. This rule applies to both monthly depositors and semi-weekly depositors.

G. Safe Harbor

To address inadvertent shortfalls in the amount of taxes required to be deposited, the proposed regulations set forth a safe harbor rule for employers that fail to deposit the full amount of taxes. Under the proposed regulations, an employer is considered to have satisfied its deposit obligation if it had a shortfall that does not exceed the greater of \$100 or 2% of the amount of employment taxes required to be deposited, and the employer deposits the shortfall on or before a specified make-up date.

Some commentators suggested that this safe harbor added complexity to the rules and should be eliminated. Other commentators, including the SBA, suggested that the proposed safe harbor should be increased to 5% or more.

The final regulations retain the safe harbor exception as proposed. In addition to the safe harbor, penalties will be abated if an employer shows that a failure to deposit the full amount of employment taxes was due to reasonable cause, as provided in section 6656. An employer may have reasonable cause if it is unable to obtain information on a timely basis and cannot reasonably estimate the items for which the information is unavailable.

The final regulations also retain a rule that allows an employer with less than \$500 of employment taxes during a calendar quarter to remit that taxes with its quarterly return, rather than separately depositing the taxes.

H. Special Rules for RRTA and Agricultural Employers

Pursuant to the Congressional mandate in section 226 of the Railroad Retirement Solvency Act of 1983, the final regulations conform the rules for depositing railroad retirement taxes to those for depositing Social Security/Medicare taxes and income taxes withheld. However, since RRTA employers file returns on an annual basis rather than quarterly, such employers are subject to a different lookback rule. This different lookback rule also applies to agricultural employers with respect to taxes on wages paid to their farmworkers. Depositor status will be based on a lookback to the railroad's or farmer's total employment tax liability during the calendar year preceding the calendar year just ended. Agricultural employers should note that, under the new regulations, taxes with respect to wages paid to farmworkers (reportable on Form 943) and taxes with respect to wages paid to non-farmworkers (reportable on Form 941) are subject to separate deposit requirements.

I. Special Rules for Backup Withholding Amounts

Some commentators have suggested that the deposit rules should not apply to backup withholding amounts on interest and dividends. Under the final regulations, amounts withheld under the backup withholding requirements of section 3406 are treated as employment taxes subject to these deposit rules. However, the final regulations continue to allow an employer to treat the backup withholding amounts separate from other other employment taxes for purposes of these deposit rules.

J. Additional Comments

A number of commentators, including the SBA, proposed alternative systems based on various combinations of thresholds, separate rules and accumulations of taxes. The final regulations do not adopt these suggestions because in many cases the alternatives do not allow employers to determine their depositor status in advance and do not address other problems associated with the current tax deposit system.

A number of commentators were concerned that the proposed regulations might apply to domestic household employers. The final regulations clarify that the rules do not apply to domestic household employers (unless such employer is otherwise required to file Form 941).

K. Effective Date

The proposed regulations issued in May 1992 indicated that the regulations would be effective for the deposit of employment taxes attributable to payments made after December 31, 1992. Some commentators requested that the final regulations retain the proposed effective date or make the effective date as early as possible. Other commentators, including the SBA, suggested that the changes in the regulations may be difficult to implement by the proposed effective date. These commentators suggested a delay in the effective date or some reasonable transitional rule or election to permit employers sufficient time to adjust to the new rules. The final regulations accommodate the interests of all these parties by retaining the proposed effective date, but providing a special transitional rule for all employers for one year to December 31, 1993.

The final regulations are effective for the deposit of employment taxes attributable to payments made after December 31, 1992. This effective date will allow employers who are able to adapt to the new rules to take advantage of the simpler rules as soon as possible. In addition, the one-year special transitional rule contained in the final regulations will allow other employers sufficient time to make necessary changes to their payroll tax deposit systems.

Under the transitional rule, employers will have until December 31, 1993 to change to the new tax deposit system. During this period, any employer that complies with the old rules will be considered in compliance with the new rules and will not be subject to penalties under section 6656. The Internal Revenue Service will institute procedures to prevent penalty notices from issuing to employers that correctly deposit under the old system during the transitional period. If penalties inadvertently are assessed, they will be abated.

Since the new rules are simpler and in most cases less restrictive than the current rules, employers that deposit under the old rules during 1993 generally will satisfy the new rules. For example, employers who currently deposit within three banking days after payroll will automatically meet the semi-weekly rule. Also, certain employers who currently deposit under the "eighth-monthly" system may now only have to deposit once a month. If these depositors continue to deposit under the

old system, they will automatically comply with the new rules.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Vincent Surabian, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department have participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—[AMENDED]

Paragraph 1. The authority citation for part 31 is amended by adding the following entry:

Authority: 26 U.S.C. 7805 * * * sections 31.6302-1 through 31.6302-3 also issued under 26 U.S.C. 6302 (a) and (c).

Par. 2. New §§ 31.6302-0 through 31.6302-3 are added to read as follows:

§ 31.6302-0 Table of Contents.

This section lists the captions that appear in §§ 31.6302-1 through 31.6302-3.

Section 31.6302-1 Federal tax deposit rules for amounts withheld under the Railroad Retirement Tax Act (R.R.T.A.) attributable to payments made after December 31, 1992.

- (a) Introduction.
- (b) Determination of status.
 - (1) In general.

- (2) Monthly depositor.
 - (i) In General.
 - (ii) Special rule.
- (3) Semi-weekly depositor.
- (4) Lookback period.
- (5) Adjustments.
- (c) Deposit rules.
 - (1) Monthly rule.
 - (2) Semi-Weekly rule.
 - (i) In general.
 - (ii) Semi-weekly period spanning two return periods.
 - (iii) Special rule for non-banking days.
 - (3) Exception—One Day rule.
 - (4) Deposits required only on banking days.
- (d) Examples.
- (e) Employment taxes defined.
- (f) Safe harbor/De Minimis rules.
 - (1) Single deposit safe harbor.
 - (2) Shortfall defined.
 - (3) Shortfall make-up date.
 - (i) Monthly rule.
 - (ii) Semi-Weekly and One-Day rule.
 - (4) De Minimis rule.
 - (5) Examples.
- (g) Agricultural employers—Special rules.
 - (1) In general.
 - (2) Monthly depositor.
 - (3) Semi-weekly depositor.
 - (4) Lookback period.
 - (5) Example.
- (h) Time and manner of deposit.
 - (1) General rules.
 - (2) Payment of balance due.
 - (3) Federal Tax Deposit (FTD) coupon.
 - (4) Procurement of FTD coupons.
 - (5) Time deemed deposited.
 - (6) Time deemed paid.
- (i) [Reserved].
- (j) Special rules.
 - (1) District Director notice exception.
 - (2) Wages paid in nonconvertible foreign currency.
- (k) Cross references.
 - (1) Failure to deposit penalty.
 - (2) Saturday, Sunday, or legal holiday.
- (l) [Reserved].
- (m) Effective date.

Section 31.6302-2 Federal tax deposit rules for amounts withheld under the Railroad Retirement Tax Act (R.R.T.A.) attributable to payments made after December 31, 1992.

- (a) General rule.
- (b) Separate application of deposit rules.
- (c) Modification of Monthly rule determination.
 - (1) General rule.
 - (2) Exception.
- (d) Wire-transfer exception.

Section 31.6302-3 Federal tax deposit rules for amounts withheld under the backup withholding requirements of Section 3406 for payments made after December 31, 1992.

- (a) General Rule.
- (b) Treatment of backup withholding amounts separately.
- (c) Example.

§ 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.

(a) *Introduction.* With respect to employment taxes attributable to payments made after December 31, 1992, an employer is either a monthly depositor or a semi-weekly depositor based on an annual determination. An employer must generally deposit employment taxes under one of two rules: the Monthly rule in paragraph (c)(1) of this section, or the Semi-Weekly rule in paragraph (c)(2) of this section. Various exceptions and safe harbors are provided. Paragraph (f) of this section provides certain safe harbors for employers who inadvertently fail to deposit the full amount of taxes. Paragraph (c)(3) of this section provides an overriding exception to the Monthly and Semi-Weekly rules where an employer has accumulated \$100,000 or more of employment taxes. Paragraph (e) of this section provides the definition of employment taxes.

(b) *Determination of status—(1) In general.* The determination of whether an employer is a monthly or semi-weekly depositor for a calendar year is based on an annual determination and generally depends upon the aggregate amount of employment taxes reported by the employer for the lookback period as defined in paragraph (b)(4) of this section.

(2) *Monthly depositor—(i) In general.* An employer is a monthly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the lookback period is \$50,000 or less.

(ii) *Special rule.* An employer ceases to be a monthly depositor on the first day after the employer is subject to the One-Day (\$100,000) rule in paragraph (c)(3) of this section. At that time, the employer immediately becomes a semi-weekly depositor for the remainder of the calendar year and for the following calendar year.

(3) *Semi-weekly depositor.* An employer is a semi-weekly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the lookback period exceeds \$50,000.

(4) *Lookback period.* The lookback period for each calendar year is the twelve month period ended the preceding June 30. For example, the lookback period for calendar year 1993 is the period July 1, 1991 to June 30, 1992. In determining status as either a monthly or semi-weekly depositor, an employer should determine the aggregate amount of employment tax

liabilities reported on its quarterly returns (Form 941) for the four quarters constituting this period. New employers shall be treated as having employment tax liabilities of zero for any calendar quarter during which the employer did not exist.

(5) *Adjustments.* The tax liability shown on an original return for the return period shall be the amount taken into account in determining whether more than \$50,000 has been reported during the lookback period. In determining the aggregate employment taxes for each quarter in a lookback period, an employer does not take into account any adjustments for the quarter made on a supplemental return filed after the due date of the return. However, adjustments made on a Form 941c, Statement to Correct Information, attached to a Form 941 filed for a subsequent quarter are taken into account in determining the employment tax liability for the subsequent quarter.

(c) *Deposit rules*—(1) *Monthly rule.* An employer that is a monthly depositor must deposit employment taxes accumulated with respect to payments made during a calendar month in a Federal Reserve bank or authorized financial institution on or before the 15th day of the following month. If the 15th day of the following month is not a banking day, taxes will be treated as timely deposited if deposited on the first banking day thereafter in accordance with paragraph (c)(4) of this section.

(2) *Semi-Weekly rule*—(i) *In general.* An employer that is a semi-weekly depositor for a calendar year must deposit its employment taxes in a Federal Reserve bank or authorized financial institution on or before the dates set forth below:

Payment dates/semi-weekly periods	Deposit date
Wednesday, Thursday and/or Friday.	On or before the following Wednesday.
Saturday, Sunday, Monday and/or Tuesday.	On or before the following Friday.

(ii) *Semi-weekly period spanning two return periods.* A special rule is provided in the case of a return period (quarterly or annual) that ends during a semi-weekly period. In this case, an employer must complete the Federal Tax Deposit (FTD) coupon in a manner which designates the proper return period for which the deposit relates (the return period in which the payment is made). In addition, if the return period ends during a semi-weekly period in which an employer has two or more payment dates, two deposit obligations

may exist. For example, if one quarterly return period ends on Thursday and a new quarterly return period begins on Friday, employment taxes from payments on Wednesday and Thursday are subject to one deposit obligation, and taxes from payments on Friday are subject to a separate obligation. Two separate Federal Tax Deposit coupons are required.

(iii) *Special rule for non-banking days.* Semi-weekly depositors shall have at least three banking days following the close of the semi-weekly period by which to deposit employment taxes accumulated during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer shall have an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday.

(3) *Exception—One-Day rule.* Notwithstanding paragraphs (c)(1) and (c)(2) of this section, if on any day within a deposit period (monthly or semi-weekly) an employer has accumulated \$100,000 or more of employment taxes, those taxes must be deposited in a Federal Reserve bank or authorized financial institution by the close of the next banking day. For purposes of determining whether the \$100,000 threshold is met—

(i) A monthly depositor takes into account only those employment taxes accumulated in the calendar month in which the day occurs; and

(ii) A semi-weekly depositor takes into account only those employment taxes accumulated in the Wednesday-Friday or Saturday-Tuesday semi-weekly period in which the day occurs.

(4) *Deposits required only on banking days.* If taxes are required to be deposited under this section on any day that is not a banking day, the taxes will be treated as timely deposited if deposited on the first banking day thereafter.

(d) *Examples.* The provisions of paragraphs (a), (b) and (c) of this section are illustrated by the following examples:

Example 1. Monthly depositor. (i) *Determination of status.* For the calendar year 1993, Employer A determines its depositor status using the lookback period July 1, 1991 to June 30, 1992. For the four calendar quarters within this period, A reported aggregate employment tax liabilities of \$42,000 on its quarterly Forms 941. Because

the aggregate amount did not exceed \$50,000, A is a monthly depositor for the entire calendar year 1993.

(ii) *Monthly rule.* During January 1993, A (a monthly depositor) accumulates \$3,500 in employment taxes. A has a \$3,500 deposit obligation that must be satisfied by the 15th day of the following month. Since February 15, 1993, President's Day, is a holiday which is not a banking day, A's deposit obligation will be satisfied if the deposit is made by the next banking day after February 15.

Example 2. Semi-weekly depositor. (i) *Determination of status.* For the four calendar quarters spanning July 1991 to June 1992, Employer B reported \$88,000 in aggregate employment tax liabilities on its Forms 941. Because that amount exceeds \$50,000, B is a semi-weekly depositor for the entire calendar year 1993.

(ii) *Semi-weekly rule.* On Friday, January 1, 1993, B (semi-weekly depositor) has a pay day on which it accumulates \$4,000 in employment taxes. B has a \$4,000 deposit obligation that must be satisfied on or before the following Wednesday, January 6, 1993.

(iii) *Deposit made within three banking days after payroll.* The example is the same as *Example 2 (ii)*, except that B deposits its accumulated employment taxes within three banking days after payroll. B deposits its \$4,000 in employment taxes on Wednesday, January 6, three banking days after its Friday payroll. Because B deposited its employment taxes on or before the following Wednesday, B has satisfied its semi-weekly deposit obligation. An employer who deposits within three banking days after payroll will always meet the Semi-Weekly rule.

Example 3. One-Day rule. On Monday, January 4, 1993, Employer C accumulates \$110,000 in employment taxes with respect to wages paid on that date. C has a deposit obligation of \$110,000 that must be satisfied by the next banking day. If C was not subject to the semi-weekly rule on January 4, 1993, C becomes subject to that rule as of January 5, 1993. See paragraph (b)(2)(ii) of this section.

Example 4. One-Day Rule in combination with subsequent deposit obligation. Employer D is subject to the semi-weekly rule for calendar year 1993. On Monday, January 4, 1993, D accumulates \$110,000 in employment taxes. D has a \$110,000 deposit obligation that must be satisfied by the next banking day. On Tuesday, January 5, D accumulates an additional \$30,000 in employment taxes. Although D has a previous \$110,000 deposit obligation incurred earlier in the semi-weekly period, D has an additional and separate deposit obligation of \$30,000 on Tuesday that must be satisfied by the following Friday.

Example 5. Special non-banking day rule for semi-weekly depositors. Employer E, a semi-weekly depositor, accumulates \$8,000 in employment taxes on Friday, February 12, 1993, a payment date. Under the general rule, E would be required to deposit the employment taxes on or before the following Wednesday, February 17. However, because Monday, February 15, is President's Day (a holiday on which banks are closed), E will have an additional day by which to satisfy its \$8,000 deposit obligation. E's deposit

obligation is due on or before Thursday, February 18, 1993.

(e) *Employment taxes defined.* (1) For purposes of this section, the term "employment taxes" means—

(i) The employee portion of the tax withheld under section 3102;

(ii) The employer tax under section 3111;

(iii) The income tax withheld under sections 3402 and 3405; and

(iv) The income tax withheld under section 3406, relating to backup withholding with respect to reportable payments.

(2) The term "employment taxes" does not include taxes with respect to wages for domestic service in a private home of the employer, unless the employer is otherwise required to file a Form 941 under § 31.6011(a)(4) or (5). In the case of employers paying advance earned income credit amounts, the amount of taxes required to be deposited shall be reduced by advance amounts paid to employees. Also, see § 31.6302-3 concerning a payor's option to treat backup withholding amounts under section 3406 separately.

(f) *Safe harbor/De minimis rules*—(1) *Single deposit safe harbor.* An employer will be considered to have satisfied its deposit obligation imposed by this section if—

(i) The amount of any shortfall does not exceed the greater of \$100 or 2 percent of the amount of employment taxes required to be deposited; and

(ii) The employer deposits the shortfall on or before the shortfall make-up date.

(2) *Shortfall defined.* For purposes of this paragraph (f), the term "shortfall" means the excess of the amount of employment taxes required to be deposited for the period over the amount deposited for the period. For this purpose, a period is either a monthly, semi-weekly or daily period.

(3) *Shortfall make-up date*—(i) *Monthly rule.* A shortfall with respect to a deposit required under the Monthly rule must be deposited or remitted no later than the due date for the quarterly return, in accordance with the applicable form and instructions.

(ii) *Semi-Weekly rule and One-Day rule.* A shortfall with respect to a deposit required under the Semi-Weekly rule or the One-Day rule must be deposited on or before the first Wednesday or Friday (whichever is earlier), falling on or after the 15th day of the month following the month in which the deposit was required to be made.

(4) *De Minimis rule.* If the total amount of accumulated employment

taxes for the quarter is less than \$500 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 have been timely deposited.

(5) *Examples.* The provisions of this paragraph (f) may be illustrated by the following examples:

Example 1. Safe-harbor rule satisfied. On Monday, January 4, 1993, J (a semi-weekly depositor), pays wages and accumulates employment taxes. As required under this section, J makes a deposit on or before the following Friday, January 8, 1993, in the amount of \$4,000. Subsequently, J determines that it was actually required to deposit \$4,090 by Friday. J has a shortfall of \$90. The \$90 shortfall does not exceed the greater of \$100 or 2% of the amount required to be deposited (2% of \$4,090 = \$81.80). Therefore, J satisfies the safe harbor of paragraph (f)(1) of this section as long as the \$90 shortfall is deposited by the first deposit date (Wednesday or Friday) on or after the 15th day of the next month (in this case Wednesday, February 17, 1993).

Example 2. Safe-harbor rule not satisfied. The facts are the same as in Example 1 except that on Friday, January 8, 1993, J makes a deposit of \$25,000, and later determines that it was actually required to deposit \$26,000. Since the \$1,000 shortfall (\$26,000 less \$25,000) exceeds \$520 (the greater of \$100 or 2% of the amount required to be deposited (2% of \$26,000 = \$520)), the safe harbor of paragraph (f)(1) of this section is not satisfied, and absent reasonable cause, J will be subject to a failure-to-deposit penalty under section 6656.

(g) *Agricultural employers—special rules*—(1) *In general.* An agricultural employer reports wages paid to farm workers annually on Form 943 (Employer's Annual Tax Return for Agricultural Employees) and reports wages paid to nonfarm workers quarterly on Form 941 (Employer's Quarterly Federal Tax Return). Accordingly, an agricultural employer must treat employment taxes reportable on Form 943 ("Form 943 taxes") separately from employment taxes reportable on Form 941 ("Form 941 taxes"). Form 943 taxes and Form 941 taxes are not combined for purposes of determining whether a deposit of either is due, whether the One-Day rule of paragraph (c)(3) of this section applies, or whether any safe harbor is applicable. In addition, separate Federal tax deposit coupons must be used to deposit Form 943 taxes and Form 941 taxes. (See paragraph (b) of this section for rules for determining an agricultural employer's deposit status for Form 941 taxes.) The determination of whether an agricultural employer is a monthly or semi-weekly depositor of Form 943 taxes is made according to the rules of this paragraph (g).

(2) *Monthly depositor.* An agricultural employer is a monthly depositor of Form 943 taxes for a calendar year if the amount of Form 943 taxes accumulated in the lookback period (as defined in paragraph (g)(4) of this section) is \$50,000 or less. An agricultural employer ceases to be a monthly depositor of Form 943 taxes on the first day after the employer is subject to the One-Day rule in paragraph (c)(3) of this section. At that time, the agricultural employer immediately becomes a semi-weekly depositor of Form 943 taxes for the remainder of the calendar year and the succeeding calendar year.

(3) *Semi-weekly depositor.* An agricultural employer is a semi-weekly depositor of Form 943 taxes for a calendar year if the amount of Form 943 taxes accumulated in the lookback period (as defined in paragraph (g)(4) of this section) exceeds \$50,000.

(4) *Lookback period.* For purposes of this paragraph (g), the lookback period for Form 943 taxes is the second calendar year preceding the current calendar year. For example, the lookback period for calendar year 1993 is calendar year 1991.

(5) The following example illustrates the provisions of this section.

Example. A, an agricultural employer, employs both farm workers and nonfarm workers (employees in its administrative offices). A's depositor status for calendar year 1993 for Form 941 taxes will be based upon its employment tax liabilities reported on Forms 941 for the third and fourth quarters of 1991 and the first and second quarters of 1992 (the period July 1 to June 30). A's depositor status for Form 943 taxes will be based upon its employment tax liability reported on its annual Form 943 for calendar year 1991.

(h) *Time and manner of deposit*—(1) *General rules.* A deposit required to be made by this § 31.6302-1 must be made separately from a deposit required by any other section. See § 31.6302-3 for an exception in the case of backup withholding amounts. Further, a deposit for a period in one calendar quarter must be made separately from a deposit for a period in another calendar quarter.

(2) *Payment of balance due.* If the aggregate amount of taxes reportable on the return for the return period exceeds the total amount deposited by the employer with regard to the return period pursuant to this section, the balance due must be remitted in accordance with the applicable form and instructions.

(3) *Federal Tax Deposit (FTD) coupon.* Each deposit required to be made under this section must be accompanied by an FTD coupon (Form 8109). The FTD

coupon shall be prepared in accordance with the instructions applicable thereto. The deposit, together with the FTD coupon, shall be forwarded to a financial institution authorized as a depository 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.

(4) *Procurement of FTD coupons.* A new employer should receive its initial supply of FTD coupon books after receiving its employer identification number. In the event that a deposit is required to be made before receipt of the FTD coupon books, the employer should contact the local IRS office and furnish the following information: the business name as it appears on IRS records, the employer identification number, address where the coupon books are to be sent, and the number of coupon books being requested. Filers of Form 1120, Form 990-C, Form 990PF (with net investment income), Form 990-T or Form 2438 must also provide the month the employer's tax year ends. If an employer has applied for an employer identification number but has not received it, and a deposit is required to be made, the employer should send a check or money order for the deposit amount to its Internal Revenue Service center. There should be included on the payment, the name and address of the entity as shown on Form SS-4, Application for Employer Identification Number, the kind of tax, the period covered, and the date on which the employer applied for the employer identification number.

(5) *Time deemed deposited.* The timeliness of a deposit will be determined by the date stamped on the FTD coupon 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).

(6) *Time deemed paid.* In general, amounts deposited under this section will be considered as paid at the time deemed deposited under paragraph (h)(5) of this section, or on the last day prescribed for filing the return (determined without regard to any extension of time for filing the return), whichever is later. For purposes of section 6511 and the regulations hereunder (relating to the period of limitation on credit or refund), if an amount is deposited prior to April 15th of the calendar year immediately

succeeding the calendar year that contains the period for which the amount was deposited, the amount will be considered paid on April 15th.

(i) [Reserved].

(j) *Special rules—(1) District Director notice exception.* The provisions of this section are not applicable with respect to employment taxes for any month in which the employer receives notice from the district director that a return is 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 the 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 those provisions 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 wages paid in nonconvertible foreign currency pursuant to § 301.6316-7.

(k) *Cross references—(1) Failure to deposit penalty.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656 and the provisions of § 301.6656-1.

(2) *Saturday, Sunday, or legal holiday.* For provisions relating to the time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday, see the provisions of § 301.7503-1.

(l) [Reserved].

(m) *Effective date.* Sections 31.6302-1 through 31.6302-3 apply with respect to the deposit of employment taxes attributable to payments made after December 31, 1992. To the extent that the provisions of §§ 31.6302-1 through 31.6302-3 are inconsistent with the provisions of §§ 31.6302(c)-1 and 31.6302(c)-2, a taxpayer will be considered to be in compliance with §§ 31.6301-1 through 31.6302-3 if the taxpayer makes timely deposits during 1993 in accordance with §§ 31.6302(c)-1 and 31.6302(c)-2.

§ 31.6302-2 Federal Tax Deposit Rules for amounts withheld under the Railroad Retirement Tax Act (R.R.T.A.) attributable to payments made after December 31, 1992.

(a) *General rule.* Except as otherwise provided in this section, the rules of § 31.6302-1 determine the time and manner of making deposits of employee tax withheld under section 3202 and employer tax imposed under sections 3221 (a) and (b) attributable to payments made after December 31, 1992. Railroad retirement taxes described in section 3221(c) arising during the month must be deposited on or before the first date after the 15th day of the following month on which taxes are otherwise required to be deposited under § 31.6302-1.

(b) *Separate application of deposit rules.* A person who accumulates tax under sections 3202 or 3221 shall not take that tax into account for purposes of determining when taxes described in paragraph (e) of § 31.6302-1 must otherwise be deposited.

(c) *Modification of Monthly rule determination—(1) General rule.* Except as otherwise provided in this section, any person is allowed to use the Monthly rule of § 31.6302-1(c)(1) for an entire calendar year unless the amount of R.R.T.A. taxes required to be deposited under this section during the lookback period was more than \$50,000. The lookback period is defined as the calendar year preceding the calendar year just ended. Thus, for purposes of determining if an R.R.T.A. employer qualifies to use the Monthly rule for calendar year 1993, a lookback must be made to calendar year 1991. New employers shall be treated as having employment tax liabilities of zero for any calendar year during which the employer did not exist.

(2) *Exception.* An employer shall immediately cease to be allowed to use the Monthly rule after any day on which that employer is subject to the One-Day rule set forth in § 31.6302-1(c)(3). Such employer immediately becomes subject to the Semi-Weekly rule of § 31.6302-1(c)(2) for the remainder of the calendar year and the following calendar year.

(d) *Wire-transfer exception.* If, for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under sections 3202 and 3221 with respect to an employer equalled or exceeded \$1 million, the employer must deposit the aggregate amount of railroad retirement taxes required to be

deposited for the current calendar year in accordance with § 31.6302(c)-2(a)(1).

§ 31.6302-3 Federal tax deposit rules for amounts withheld under the backup withholding requirements of section 3406 for payments made after December 31, 1992.

(a) *General rule.* The rules of § 31.6302-1 shall apply to determine the time and manner of making deposits of amounts withheld under the backup withholding requirements of section 3406.

(b) *Treatment of backup withholding amounts separately.* A payor who withholds income tax with respect to reportable payments under section 3406 may, in accordance with the instructions provided with Form 941, deposit such taxes under the rules of § 31.6302-1 without taking into account the other taxes described in paragraph (e) of § 31.6302-1 for purposes of determining when taxes withheld under section 3406 must be deposited. A person who treats backup withholding amounts separately shall not take tax withheld under section 3406 into account for purposes of determining when the other taxes described in paragraph (e) of § 31.6302-1 must otherwise be deposited under that section.

(c) *Example.* The following example illustrates the provisions of this section.

Example. For the last two calendar quarters of 1991 and the first two calendar quarters of 1992, Bank A reports employment taxes with respect to wages paid totalling in excess of \$50,000. For the same four quarters, pursuant to section 3406, A withholds income tax with respect to dividend payments in an amount aggregating less than \$50,000. For deposit and reporting purposes, A treated the backup withholding amounts separately from the employment taxes with respect to wages paid. Accordingly, for calendar year 1993, if A chooses to treat the items separately, A must use the Semi-Weekly rule of § 31.6302-1(c)(2) to deposit taxes with respect to wages paid but may use the Monthly rule of § 31.6302-1(c)(1) for the deposit of backup withholding amounts. If A chooses not to treat the items separately, the Semi-Weekly rule would apply to the combined amount of both the taxes with respect to wages paid and the backup withholding amounts.

Par. 3. Section 31.6302(c)-1 is amended as follows:

1. The section heading is revised.
2. The heading for paragraph (a) is revised.
3. In paragraph (a)(1)(ii), the introductory language is revised.
4. The revisions read as set forth below.

§ 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.*

* * *

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

* * *

Par. 4. Section 31.6302(c)-2 is amended as follows:

1. The section heading is revised.
2. The heading for paragraph (a)(2) is revised.
3. The revisions read as set forth below.

§ 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) * * *

(2) *In general: After March 31, 1991 and before January 1, 1993.*

* * *

Shirley D. Peterson,
Commissioner of Internal Revenue.

Approved: September 14, 1992.

Fred T. Goldberg, Jr.,
Assistant Secretary of the Treasury.
[FR Doc. 92-23233 Filed 9-22-92; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 11

[AG Order No. 1625-92]

Debt Collection; Salary and Administrative Offset

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is issuing regulations that govern the collection of debts owed to the United States. This rule implements the debt collection procedures provided under 5 U.S.C. 5514 and 31 U.S.C. 3716, which authorize agencies of the federal government to collect debts by means of salary and administrative offset provided that the agencies have accorded debtors certain procedural protections.

EFFECTIVE DATE: October 26, 1992.

FOR FURTHER INFORMATION CONTACT: James E. Williams, Director, Finance

Staff, Justice Management Division, Department of Justice, Patrick Henry Building, room 7430, 601 D Street, NW., Washington, DC 20530; telephone (202) 501-6984.

SUPPLEMENTARY INFORMATION:

Salary Offset

Under 5 U.S.C. 5514, when the head of an agency determines that an employee of the agency is indebted to the United States, or when he is notified by the head of another agency that an agency employee is indebted to the United States, the employee's debt may be offset against his or her pay. The amount deducted in each pay period may not exceed 15 percent of the employee's disposable pay unless the employee gives written consent to a greater deduction.

The employee must be afforded certain procedural protections before salary offset deductions can begin. Under section 5514(a)(2), an employee-debtor must be provided with notice of the debt, an opportunity to review the record, an opportunity to enter into a written repayment agreement, and an opportunity for a hearing before the government may collect the debt by salary offset. The employee must notify the agency of his or her intent to exercise these rights within the time period prescribed in the regulations.

The Office of Personnel Management (OPM) has issued regulations, codified at 5 CFR part 550, subpart K, prescribing guidelines for the preparation by agencies of salary offset regulations. The salary offset provisions of this rule comply with the prescribed guidelines and have been approved by OPM.

Administrative Offset

Under 31 U.S.C. 3716, an agency may collect a debt owed it by an employee, organization, or entity by withholding payment or offsetting monies owed by the agency to the debtor, pending resolution of the government's claim. The procedural protections afforded the debtor with respect to administrative offset are largely the same as those afforded under the salary offset provisions.

The Department published a Notice of Proposed Rulemaking on October 1, 1991 (56 FR 49729). No substantive comments were received. No substantive changes have been made to the proposed rule.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does it