

calendar year continues in effect with respect to the employee only during that calendar year and until revoked by the employee or until another certificate takes effect. See paragraphs (d)(2) and (c)(2) of this section.

(2) *Change of status*—(i) *Revocation of certificate.* If, after an employee has furnished an earned income credit advance payment certificate—

(A) The employee no longer wishes to receive advance earned income credit payments; or

(B) There has been a change of circumstances which has the effect of either making the employee ineligible for the earned income credit for the taxable year or causing a certificate to be in effect for the employee's spouse, then the employee must revoke the certificate previously furnished by furnishing the employer a new certificate (Form W-5 or identical form) in revocation of the earlier certificate. Depending upon the nature of the change of circumstances, the employer may be required, pursuant to the new certificate, to pay further advance earned income credit amounts to the employee (but in different amounts than previously paid to the employee). The Form W-5 (or identical form) must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In the case of revocation due to change of circumstances, the new certificate in revocation must be delivered to the employer within ten days after the employee first learns of the change of circumstances. The new certificate is effective under the rules provided in paragraph (c)(2) of this section for later certificates. A new certificate furnished by an employee which is invalid within the meaning of paragraph (b)(2) of this section is considered a nullity with respect to all payments of wages thereafter to the employee. The prior certificate of the employee remains in effect, unless the employee clearly indicates by an oral or written statement to the employer that the prior certificate is invalid. See paragraph (b)(2) of this section.

The employer is not required to ascertain whether any employee has experienced a change of circumstances de-

scribed in subdivision (i)(B) of this paragraph which necessitates the employee's furnishing a new certificate. However, the employer should inform the district director if the employer has reason to believe that an employee has experienced a change of circumstances as described if the employee does not deliver a new certificate to the employer within the ten day period.

(ii) *Change in spouse's certificate.* If, after an employee has furnished an earned income credit advance payment certificate stating that a certificate is in effect for the spouse of the employee, the certificate of the spouse is no longer in effect, the employee may furnish the employer with a new certificate which reflects this change of circumstances.

[T.D. 7766, 46 FR 10152, Feb. 2, 1981]

**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

Inter  
 §§31.  
 relat  
 (d)  
 man  
 claim  
 ploy  
 recor  
 of ea  
 servi  
 begi  
 servi  
 to hi  
 ulati  
 empl  
 nish  
 sions  
 (e)  
 recor  
 regul  
 by th  
 one  
 tions  
 ficer  
 able  
 (2)  
 the  
 requ  
 to k  
 (whet  
 abilit  
 such  
 after  
 retur  
 late,  
 which  
 claim  
 this  
 perio  
 date  
 (7)  
 31.600  
 recor  
 Feder  
 the R  
 Feder  
 the c  
 on wa  
 §31.60  
 Fe  
 Ar  
 (a) i  
 ble fo  
 Contr.  
 all res  
 a med  
 emplo  
 than  
 instit

ion (1)(B) of this cessitates the em- a new certificate. yer should inform r if the employer : than an employee change of cir- rcribed if the em- iver a new certifi- er within the ten

use's certificate. If, has furnished an t advance payment hat a certificate is ouse of the em- te of the spouse is the employee may r with a new cer- ts this change of

Feb. 2, 1981]

**Administrative Provi- al Application to Taxes (Selected Subtitle F, Inter- Code of 1954)**

in general.

s. The records re- ations in this part ately, but no par- red for keeping the and systems of ac- sed as will enable tor to ascertain r tax is incurred t thereof.

ns, schedules, and erson who is re- ations in this part applicable to any reunder, to keep return, schedule, document, shall part of his records. nants. Any person ee) who, pursuant t this part, claims abatement, shall id detailed record tax, interest, addi- tional amount, or o which the claim shall include any the claimant by is 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 em-

ployment, 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 Insurance Contributions Act made pursuant to the regulations in this part. The employer shall keep as a part of his records a copy of each statement furnished pursuant to paragraph (c) of § 31.6011(a)-1.

(3) Every employer shall keep records of all remuneration in the form of tips received by his employees after 1965 in the course of their employment and reported to him pursuant to section 6053(a). The employer shall keep as part of his records employee statements of tips furnished him pursuant to section 6053(a) (unless the informa-

tion disclosed by such statements is recorded on another document retained by the employer pursuant to paragraph (a)(1) of this section) and copies of employer statements furnished employees pursuant to section 6053(b).

(b) *Agricultural labor, domestic service, and service not in the course of employer's trade or business.* (1) Every employer who pays cash remuneration after 1954 for the performance for him after 1950 of agricultural labor which constitutes or is deemed to constitute employment, of domestic service in a private home of the employer not on a farm operated for profit, or of service not in the course of his trade or business shall keep records of all such cash remuneration with respect to which he incurs, or expects to incur, liability for the taxes imposed by the Federal Insurance Contributions Act, or with respect to which amounts equivalent to employee tax are deducted pursuant to section 3102(a). See §§ 31.3101-3, 31.3111-3, and 31.3121(a)-2 for provisions relating, respectively, to the liability for employee tax which is incurred when wages are received, the liability for employer tax which is incurred when wages are paid, and the time when wages are paid and received. Such records shall show with respect to each employee receiving such cash remuneration—

(i) The name of the employee.

(ii) The account number of each employee to whom wages for such services are paid within the meaning of § 31.3121(a)-2, and such additional information 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.

(iii) The amount of such cash remuneration paid to the employee (including any sum withheld therefrom as tax or for any other reason) for agricultural labor which constitutes or is deemed to constitute employment, for domestic service in a private home of the employer not on a farm operated for profit, or for service not in the course of the employer's trade or business; the calendar month in which such cash remuneration was paid; and the

character of the services for which such cash remuneration was paid. When the employer incurs liability for the taxes imposed by the Federal Insurance Contributions Act with respect to any such cash remuneration which he did not previously expect would be subject to the taxes, the amount of any such cash remuneration not previously made a matter of record shall be determined by the employer to the best of his knowledge and belief.

(iv) The amount of employee tax, or any amount equivalent to employee tax, collected with respect to such cash remuneration and the calendar month in which collected. See paragraph (b) of § 31.3102-1 for provisions relating to collection of amounts equivalent to employee tax.

(v) To the extent material to a determination of tax liability, the number of days during each calendar year after 1956 on which agricultural labor which constitutes or is deemed to constitute employment is performed by the employee for cash remuneration computed on a time basis.

(2) Every person to whom a "crew leader", as that term is defined in section 3121(i), furnishes individuals for the performance of agricultural labor after December 31, 1958, shall keep records of the name; permanent mailing address, or if none, present address; and identification number, if any, of such "crew leader".

(T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7001, 34 FR 1003, Jan. 23, 1969)

#### § 31.6001-3 Additional records under Railroad Retirement Tax Act.

(a) *Records of employers.* (1) Every employer liable for tax under the Railroad Retirement Tax Act shall keep records of all remuneration (whether in money or in something which may be used in lieu of money), other than tips, paid to his employees after 1954 for services rendered to him (including "time lost") after 1954. Such records shall show with respect to each employee—

(i) The name and address of the employee.

(ii) The total amount and date of each payment of remuneration to the employee (including any sum withheld therefrom as tax or for any other rea-

services for which remuneration was paid. The employer incurs liability for the tax by the Federal Unemployment Tax Act with respect to remuneration which the employer is expected to pay, the amount of any such payment not previously recorded shall be determined by the employer to the best of his belief.

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

(2) The employer shall keep records of the details of each adjustment or settlement of taxes under the Railroad Retirement Tax Act made pursuant to the regulations in this part.

(b) *Records of employee representatives.* Every individual liable for employee representative tax under the Railroad Retirement Tax Act shall keep records of all remuneration (whether in money or in something which may be used in lieu of money) paid to him after 1954 for services rendered (including "time lost") by him as an employee representative after 1954. Such records shall show—

(1) The name and address of each employee organization employing him.

(2) The total amount and date of each payment of remuneration for services rendered as an employee representative (including any sum withheld therefrom as tax or for any other reason) and the period of service (including any period of absence from active service) covered by such payment.

(3) The amount of such remuneration payment with respect to which the employee representative tax is imposed.

(4) If the total payment of remuneration (paragraph (a)(2) of this section) and the amount thereof with respect to which the employee representative tax is imposed (paragraph (a)(3) of this section) are not equal, the reason therefor.

§ 31.6001-4 Additional records under Federal Unemployment Tax Act.

(a) *Records of employers.* Every employer liable for tax under the Federal Unemployment Tax Act for any calendar year shall, with respect to each such year, keep such records as are necessary to establish—

(1) The total amount of remuneration (including any sum withheld therefrom as tax or for any other reason) paid to his employees during the calendar year for services performed after 1938.

(2) The amount of such remuneration which constitutes wages subject to the tax. See § 31.3306(b)-1 through § 31.3306(b)(8)-1.

(3) The amount of contributions paid by him into each State unemployment fund, with respect to services subject to the law of such State, showing separately (i) payments made and neither deducted nor to be deducted from the remuneration of his employees, and (ii) payments made and deducted or to be deducted from the remuneration of his employees.

(4) The information required to be shown on the prescribed return and the extent to which the employer is liable for the tax.

(5) If the total remuneration paid (paragraph (a)(1) of this section) and the amount thereof which is subject to the tax (paragraph (a)(2) of this section) are not equal, the reason therefor.

(6) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which each employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. See § 31.3306(c)(3)-1.

The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business. See § 31.3306(b)(7)-1.

(b) *Records of persons who are not employers.* Any person who employs individuals in employment (see §§ 31.3306(c)-1 to 31.3306(c)-3, inclusive) during any calendar year but who considers that he is not an employer subject to the tax (see § 31.3306(a)-1) shall, with respect to each such year, be prepared to establish by proper records (including, where necessary, records of

(1) The total amount of remuneration (including any sum withheld therefrom as tax or for any other reason) paid to his employees during the calendar year for services performed after 1938.

(2) The amount of such remuneration which constitutes wages subject to the tax. See § 31.3306(b)-1 through § 31.3306(b)(8)-1.

(3) The amount of contributions paid by him into each State unemployment fund, with respect to services subject to the law of such State, showing separately (i) payments made and neither deducted nor to be deducted from the remuneration of his employees, and (ii) payments made and deducted or to be deducted from the remuneration of his employees.

(4) The information required to be shown on the prescribed return and the extent to which the employer is liable for the tax.

(5) If the total remuneration paid (paragraph (a)(1) of this section) and the amount thereof which is subject to the tax (paragraph (a)(2) of this section) are not equal, the reason therefor.

(6) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which each employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. See § 31.3306(c)(3)-1.

The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business. See § 31.3306(b)(7)-1.

(b) *Records of persons who are not employers.* Any person who employs individuals in employment (see §§ 31.3306(c)-1 to 31.3306(c)-3, inclusive) during any calendar year but who considers that he is not an employer subject to the tax (see § 31.3306(a)-1) shall, with respect to each such year, be prepared to establish by proper records (including, where necessary, records of



the number of employees employed each day) that he is not an employer subject to the tax.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6658, 28 FR 6642, June 27, 1963]

**§31.6001-5 Additional records in connection with collection of income tax at source on wages.**

(a) Every employer required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by) such employees. Such records shall show with respect to each employee—

- (1) The name and address of the employee, and after December 31, 1962, the account number of the employee.
- (2) 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.
- (3) The amount of such remuneration payment which constitutes wages subject to withholding.
- (4) The amount of tax collected with respect to such remuneration payment, and, if collected at a time other than the time such payment was made, the date collected.
- (5) If the total remuneration payment (paragraph (a)(2) of this section) and the amount thereof which is taxable (paragraph (a)(3) of this section) are not equal, the reason therefor.
- (6) Copies of any statements furnished by the employee pursuant to paragraph (b)(12) of §31.3401(a)-1 (relating to permanent residents of the Virgin Islands).
- (7) Copies of any statements furnished by the employee pursuant to §§31.3401(a)(6)-1 and 31.3401(a)(7)-1, relating to nonresident alien individuals.
- (8) Copies of any statements furnished by the employee pursuant to §31.3401(a)(8)(A)-1 (relating to residence or physical presence in a foreign country).
- (9) Copies of any statements furnished by the employee pursuant to §31.3401(a)(8)(C)-1 (relating to citizens resident in Puerto Rico).
- (10) The fair market value and date of each payment of noncash remuneration, made to an employee after Au-

gust 9, 1955, for services performed as a retail commission salesman, with respect to which no income tax is withheld by reason of §31.3402(j)-1.

- (11) [Reserved]
  - (12) In the case of the employer for whom services are performed, with respect to payments made directly by him after December 31, 1955, under an accident or health plan (as defined in section 105 and the regulations thereunder)—
    - (1) The beginning and ending dates of each period of absence from work for which any such payment was made; and
    - (11) Sufficient information to establish the amount and weekly rate of each such payment.
    - (13) The withholding exemption certificates (Forms W-4 and W-4E) filed with the employer by the employee.
    - (14) The agreement, if any, between the employer and the employee for the withholding of additional amounts of tax pursuant to §31.3402(i)-1.
    - (15) To the extent material to a determination of tax liability, the dates, in each calendar quarter, on which the employee performed services not in the course of the employer's trade or business, and the amount of cash remuneration paid at any time for such services performed within such quarter. (See §31.3401(a)(4)-1.)
    - (16) In the case of tips received by an employee after 1965 in the course of his employment, copies of any statements furnished by the employee pursuant to section 6053(a) unless the information disclosed by such statements is recorded on another document retained by the employer pursuant to the provisions of this paragraph.
    - (17) Any request of an employee under section 3402(h)(3) and §31.3402(h)(3)-1 to have the amount of tax to be withheld from his wages computed on the basis of his cumulative wages, and any notice of revocation thereof.
- The term "remuneration," as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business, and does not include tips received by an employee in any medium other

than  
 amount  
 endar  
 31.3401-  
 (b) 1  
 of the  
 settler  
 under  
 the reg  
 [T.D. 6  
 amende  
 1962; T.D.  
 7001, 34  
 10292, J  
 July 21,  
 1963]

§31.6001-5  
 req  
 the  
 The c  
 person.  
 make s  
 ments.  
 will en  
 termina  
 liable f  
 regulat  
 tion.

§31.6001-5  
 Ins  
 (a) Re  
 as othe  
 every e  
 turn ur  
 tributio  
 1955, fo  
 rember  
 other  
 labor, s  
 sequent  
 not wa  
 until he  
 cordanc  
 otherwi  
 every e  
 return :  
 Decemb  
 for the  
 after ir  
 than wa  
 ject to t  
 Insuranc  
 fect afte  
 for each  
 (wethe  
 until he  
 cordanc  
 otherwis

statements furnished under this paragraph. In the case of sick pay paid under a multiemployer plan pursuant to a collectively bargained agreement, an amendment to either the multiemployer plan or the collectively bargained agreement designating the payor to be the employers' agent for purposes of fulfilling the requirements of this section shall be deemed an agency agreement that fulfills the requirements of the first sentence of this paragraph.

(d) *Definitions.* For purposes of this section, the terms "payor", "payee", and "sick pay" shall have the same meaning as ascribed thereto in section 3402(o) and the regulations thereunder. For purposes of this section, the term "employer" shall have the same meaning as ascribed thereto in section 3401(d) and the regulations thereunder, except that the term "employer" shall not include the payor for purposes of this section.

(e) *Additional requirements.* (1) Statements furnished to payees under this section must also comply with all requirements of section 6051 (c) and (d) and the regulations thereunder.

(2) The provisions of § 1.9101-1 (relating to permission to submit information required by certain returns and statements on magnetic tape) shall be applicable to the information required by this section to be furnished on Form W-2 if the employer properly complies with those provisions.

(3) The provisions of section 6109 (relating to identifying numbers) and the regulations thereunder shall be applicable to Form W-2 and to any payee of sick pay to whom a statement on Form W-2 is required by this section to be furnished. Thus the employer must include the social security account number of the payee on all Forms W-2.

(f) *Effective date.* The provisions of this section shall apply to payments of sick pay made on or after May 1, 1981.

(g) *Transitional rule.* Payors may report all sick pay paid to a payee after December 31, 1980, and before May 1, 1981, on the same statement required to be furnished under paragraph (a) as is used to report sick pay paid to a payee on or after May 1, 1981. If the payor reports on the statement required to be furnished under paragraph (a), he shall

not report sick pay paid after December 31, 1980, and before May 1, 1981, on Form 1099, if otherwise required to do so. If no sick pay is paid on or after May 1, 1981, the payor may report all sick pay paid to a payee after December 31, 1980, and before May 1, 1981, on the statement required to be furnished under paragraph (a). If he reports on the statement required to be furnished under paragraph (a), he shall not report sick pay paid on Form 1099, if otherwise required to do so.

(Secs. 3402(o), 7805, Internal Revenue Code of 1954 (94 Stat. 3495, (26 U.S.C. 3402(o)); 68A Stat. 917 (26 U.S.C. 7805))

[T.D. 7814, 47 FR 11277, Mar. 16, 1982]

#### § 31.6053-1 Report of tips by employee to employer.

(a) *Requirement that tips be reported.* An employee who receives after 1965, in the course of his employment by an employer, tips which constitute wages as defined in section 3121(a) or section 3401 shall furnish to his employer a written statement, or statements, disclosing the total amount of such tips received by the employee in the course of his employment by such employer. For provisions relating to the treatment of tips as wages for purposes of the tax under section 3101, see 3121(a)(12) and 3121(q). For provisions relating to the treatment of tips as wages for purposes of the tax under section 3402, see §§ 31.3401(a)(16) and 31.3401(f). Tips received by an employee in a calendar month in the course of his employment by an employer which are required to be reported to the employer must be so reported on or before the 10th day of the following month. Thus, tips received by an employee in January 1966, are required to be reported by the employee to his employer on or before February 10, 1966.

(b) *Statement for use in reporting tips—*  
(1) *In general.* The written statement furnished by the employee to the employer in respect of tips received by the employee shall be signed by the employer and should disclose:

(i) The name, address, and social security number of the employee.

(ii) The name and address of the employer.

(iii) The period for which, and the date on which, the statement is fur-

ly paid after December 31, 1965, on or before May 1, 1966, on or before the date required to do so. If the employee is paid on or after May 1, 1966, the employer may report all tips received after December 31, 1965, on or before May 1, 1966, on or before the date required to be furnished. If he reports on or before the date required to be furnished, he shall not report Form 1099, if otherwise required.

Internal Revenue Code of 1954 (U.S.C. 3402(o)); 68A

Mar. 16, 1962]

#### of tips by employee

all tips be reported. For tips received after 1965, in the course of employment by an employee which constitute wages under section 3121(a) or section 3122(a) of his employer's statements, disallowance of such tips received by such employer. In the course of the treatment for purposes of section 3101, see section 3101. For provisions relating to tips as of the tax under section 31.3401(a)(16) and section 31.3401(a)(17) in the course of an employer which reported on or before the following month. If an employee is required to be reported to his employer on or before May 10, 1966.

*in reporting tips—* A written statement by the employee to the employer showing the amount of tips received by the employee.

and social security number of the employee.

which, and the statement is furnished

by the employer to the employee showing gross pay, deductions, etc. (c) *Period covered by, and due date of, tip statement—*(1) *In general.* In no event shall the written statement furnished by the employee to the employer in respect of tips received by him cover a period in excess of 1 calendar month. An employer may, in his discretion, require the submission of a written statement in respect of a specified period of time, for example, on a weekly or bi-weekly basis, regular payroll period, etc. An employer may specify, subject to the limitation in paragraph (a) of this section, the time within which, or the date on which, the statement for a specified period of time should be submitted by the employee. For example, a statement covering a payroll period may be required to be submitted on the first (or second) day following the close of such payroll period. However, a written statement submitted by an employee after the date specified by the employer for its submission shall be considered as a statement furnished pursuant to section 6053(a) and this section if it is submitted to the employer on or before the 10th day following the month in which the tips were received.

(iv) The total amount of tips received by the employee during the period covered by the statement which are required to be reported to the employer (see paragraph (a) of this section).

(2) *Form of statement—*(1) *In general.* No particular form is prescribed which must be used in all cases in furnishing the statement required by this section. Unless some other form is provided by the employer for use by the employee in reporting tips received by him, Form 4070 may be used by the employee. Copies of Form 4070 will be furnished by district directors upon request.

(ii) *Forms provided by employers.* Subject to certain conditions and limitations, an employer may provide a form or forms for use by his employees in reporting tips received by them. Any such form provided for use by an employee, which is to be used solely for the purpose of reporting tips, shall meet all the requirements of paragraph (b)(1) of this section, and a blank copy of the form shall be made available to the employee for completion and retention by him. In lieu of a special form for tip reporting, and employer may provide regularly used forms (such as time cards) for use by employees in reporting tips. Any such regularly used form must meet the requirements of paragraph (b)(1) (iii) and (iv) of this section, and shall contain identifying information which will assure accurate identification of the employee by the employer. However, a regularly used form may be used for the purpose of reporting tips only if, at the time of the first payment of wages (or within a short period thereafter) following the reporting of tips by the employee, the employee is furnished a statement suitable for retention by him showing the amount of tips reported by the employee for the period. This requirement may be met, for example, through the use of a payroll check stub or other payroll document regularly furnished

by the employer to the employee showing gross pay, deductions, etc.

(2) *Termination of employment.* If an employee's employment is being terminated, a written statement in respect of tips shall be furnished by the employee to the employer at the time the employee ceases to perform services for the employer. However, a written statement submitted by an employee after the date on which he ceases to perform services for the employer shall be considered as a statement furnished pursuant to section 6053(a) and this section if the statement is submitted to the employer prior to the day on which the final payment of wages is made by the employer to the employee and on or before the 10th day following the month in which the tips were received.

(T.D. 7001, 34 FR 1004, Jan. 23, 1969)

[T.D. 7001, 34 FR 1004, Jan. 23, 1969]

#### § 31.6053-2 Employer statement of uncollected employee tax.

(a) *Requirement that statement be furnished. If—*

(1) The amount of the employee tax imposed by section 3101 in respect of