



Treasury Decisions
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Rules and Regulations

DEPARTMENT OF THE TREASURY
Internal Revenue Service (IRS)

26 CFR Parts 31 and 602

61 FR 27007; RIN 1545-AT86

Reporting of Nonpayroll Withheld Tax Liabilities

T.D. 8672

DATE: May 30, 1996

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The final regulations require a person to file Form 945, Annual Return of Withheld Federal Income Tax, only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

EFFECTIVE DATE: These regulations are effective May 30, 1996.

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

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (*44 U.S.C. 3507*) under control number 1545-1413. Responses to this collection of information are required by the IRS to monitor compliance with the Federal tax rules related to the reporting and deposit of nonpayroll withheld income taxes.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Estimates of the reporting burden in these final regulations are reflected in the burden of Form 945.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On October 16, 1995, final and temporary regulations (TD 8624) relating to the reporting of nonpayroll withheld income taxes under section 6011 were published in the **Federal Register** (60 FR 53509). A notice of proposed rulemaking (IA-30-95) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (60 FR 53561).

The IRS received no written comments responding to the notice. Accordingly, the regulations proposed by IA-30-95 are adopted as proposed with a minor editorial change.

Explanation of Provisions

These final regulations remove the requirement that, once a person files a Form 945 for a calendar year, the person must file a Form 945 every subsequent year until the person files a final return. Under these final regulations, a person must file a Form 945 only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information. The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 602 are amended as follows:

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

Paragraph 1. The authority citation for part 31 is amended by removing the citation for "Section 31.6011(a)-4T" as follows:

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

Par 2. Section 31.6011(a)-4 is amended by revising paragraph (b) to read as follows:

§ 31.6011(a)-4 -- Returns of income tax withheld.

* * * * *

(b) *Withheld from nonpayroll payments.* Every person required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with § 31.6011(a)-6. Every person not required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold such tax and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with § 31.6011(a)-6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are-

- (1) Certain gambling winnings subject to withholding under section 3402(q);
- (2) Retirement pay for services in the Armed Forces of the United States subject to withholding under section 3402;
- (3) Certain annuities as described in section 3402(o)(1)(B);
- (4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and
- (5) Reportable payments subject to backup withholding under section 3406.

* * * * *

§ 31.6011(a)-4T -- [Removed]

Par. 3. Section 31.6011(a)-4T is removed.

PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 -- [Amended]

Par. 5. Section 602.101, paragraph (c) is amended in the table by removing the entry "31.6011(a)-4T....1545-1413".

Margaret Milner Richardson,

T.D. 8672

Commissioner of Internal Revenue.

Approved: April 5, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

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