

(ii) If the person is other than a person described in section (a)(1) of section 6157, deposit the amount of such tax by the last day of the first calendar month following the close of—

(a) The period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes an employer (as defined in section 3306(a)), and

(b) The third calendar quarter of such year, if the period specified in (a) of this subdivision includes only the first two calendar quarters of the calendar year.

(2) *Special rule where accumulated amount does not exceed \$500.* The provisions of paragraph (a)(1) of this section shall not apply with respect to any period described therein if the amount of the tax imposed by section 3301 for such period (as computed under section 6157) plus amounts not deposited for prior periods does not exceed \$500 (\$100 in the case of periods ending on or before December 31, 2004). Thus, an employer shall not be required to make a deposit for a period unless his tax for such period plus tax not deposited for prior periods exceeds \$500.

(b) *Manner of deposit*—(1) *In general.* A deposit required to be made by an employer under this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one, remittance of the amount required to be deposited. An employer that is not required to deposit an amount of tax by this section may nevertheless voluntarily make that deposit. For the requirement to deposit tax under the Federal Unemployment Tax Act by electronic funds transfer, see § 31.6302-1(h).

(2) *Time deemed paid.* For the time an amount deposited by electronic funds transfer is deemed paid, see § 31.6302-1(h)(9). For the time an amount remitted with a return is deemed paid, see § 31.6302-1(i)(3).

(c) *Effective/applicability date.* This section applies to deposits and payments made after December 31, 2010.

[T.D. 7037, 35 FR 6709, Apr. 28, 1970; 35 FR 7070, May 5, 1970, as amended by T.D. 7062, 35 FR 14840, Sept. 24, 1970; T.D. 7953, 49 FR 19645, May 9, 1984; 49 FR 25239, June 20, 1984; T.D. 8723, 62 FR 37494, July 14, 1997; T.D. 8952, 66 FR 33831, 33832, June 26, 2001; T.D. 9162, 69 FR 69820, Dec. 1, 2004; T.D. 9239, 71 FR 13, Jan. 3, 2006; T.D. 9507, 75 FR 75903, Dec. 7, 2010]

§ 31.6302(c)-4 Cross references.

(a) *Failure to deposit.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656.

(b) *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 of this chapter (Regulations on Procedure and Administration).

[T.D. 6516, 25 FR 13032, Dec. 20, 1960. Redesignated by T.D. 7037, 35 FR 6709, Apr. 28, 1970, as amended by T.D. 8947, 66 FR 32542, June 15, 2001]

§ 31.6361-1 Collection and administration of qualified State individual income taxes.

Except as otherwise provided in §§ 301.6361-1 to 301.6385-2, inclusive, of this chapter (Regulations on Procedure and Administration), the provisions of this part under subtitle F or chapter 24 of the Internal Revenue Code of 1954 relating to the collection and administration of the taxes imposed by chapter 1 of such Code on the incomes of individuals (or relating to civil or criminal sanctions with respect to such collection and administration) shall apply to the collection and administration of qualified State individual income taxes (as defined in section 6362 of such Code and the regulations thereunder) as if such taxes were imposed by chapter 1 of chapter 24.

(86 Stat. 944, 26 U.S.C. 6364; and 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7577, 43 FR 59360, Dec. 20, 1978]

§ 31.6402(a)-1 Credits or refunds.

(a) *In general.* For regulations under section 6402 of special application to credits or refunds of employment taxes, see §§ 31.6402(a)-2, 31.6402(a)-3,

and 31.6414-1. For regulations under section 6402 of general application to credits or refunds, see §§ 301.6402-1 and 301.6402-2. For provisions relating to adjustments without interest of overpayments of taxes under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act or income tax withholding, see §§ 31.6413(a)-1 and 31.6413(a)-2.

(b) *Period of limitation.* For the period of limitation upon credit or refund of taxes imposed by the Internal Revenue Code of 1954, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration). For the period of limitation upon credit or refund of any tax imposed by the Internal Revenue Code of 1939, see the regulations applicable with respect to such tax.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 9405, 73 FR 37379, July 1, 2008]

§ 31.6402(a)-2 Credit or refund of tax under Federal Insurance Contributions Act or Railroad Retirement Tax Act.

(a) *Claim by person who paid tax to IRS—(1) In general.* (i) Any person may file a claim for credit or refund for an overpayment (except to the extent that the overpayment must be credited pursuant to § 31.3503-1) if the person paid to the IRS more than the correct amount of employee Federal Insurance Contributions Act (FICA) tax under section 3101 or employer FICA tax under section 3111, employee Railroad Retirement Tax Act (RRTA) tax under section 3201, employee representative RRTA tax under section 3211, or employer RRTA tax under section 3221, or interest, addition to the tax, additional amount, or penalty with respect to any such tax.

(ii) The claim for credit or refund must be made in the manner and subject to the conditions stated in this section. The claim for credit or refund must be filed on the form prescribed by the IRS and must designate the return period to which the claim relates, explain in detail the grounds and facts relied upon to support the claim, and set forth such other information as may be required by this section and by the instructions relating to the form used to make such claim. No refund or credit

pursuant to this section for employer tax will be allowed unless the employer has first repaid or reimbursed its employee or has secured the employee's consent to the allowance of the claim for refund and includes a claim for the refund of such employee tax. However, this requirement does not apply to the extent that the taxes were not withheld from the employee or, after the employer makes reasonable efforts to repay or reimburse the employee or secure the employee's consent, the employer cannot locate the employee or the employee will not provide consent. No refund or credit of employee FICA or RRTA tax overcollected in an earlier year will be allowed if the employee has claimed a refund or credit of the amount of the overcollection which has not been rejected or if the employee has taken the amount of such tax into account in claiming a credit against or refund of the employee's income tax, including instances in which the employee has included an overcollection of employee FICA or RRTA tax in computing a special refund (see § 31.6413(c)-1).

(iii) For adjustments without interest of overpayments of FICA or RRTA taxes, see § 31.6413(a)-2.

(iv) For corrections of FICA and RRTA tax paid under the wrong chapter, see § 31.6205-1(b)(2)(ii) and (iii) and § 31.3503-1.

(v) For provisions related to furnishing employee statements and corrected employee statements reporting wages and withheld taxes, see sections 6041 and 6051 and §§ 1.6041-2 and 31.6051-1. For provisions relating to filing information returns and corrected information returns reporting wages and withheld taxes, see sections 6041 and 6051 and §§ 1.6041-2 and 31.6051-2.

(vi) For the period of limitations on credit or refund of taxes, see § 301.6511(a)-1.

(2) *Statements supporting employer's claims for employee tax.* (i) Every employer who files a claim for refund or credit of employee FICA tax under section 3101 or employee RRTA tax under section 3201 collected from an employee must certify as part of the claim process that the employer has repaid or reimbursed the tax to its employee or has secured the employee's