

(i) Title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act (42 U.S.C. 301 *et seq.*); or

(ii) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) *Assistance under Job Training Partnership Act.* Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*) from funds appropriated pursuant to such Act.

(13) *Principal residence exempt in absence of certain approval or jeopardy.* Except to the extent provided in section 6334(e), the principal residence (within the meaning of section 1034) of the taxpayer whose tax liability is being sought to be collected upon.

(b) *Appraisal.* The internal revenue officer seizing property of the type described in section 6334(a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, such officer shall summon three disinterested individuals who shall make the valuation.

(c) *Other property.* No other property or rights to property are exempt from levy except the property specifically exempted by section 6334(a). No provision of a State law may exempt property or rights to property from levy for the collection of any Federal tax. Thus, property exempt from execution under State personal or homestead exemption laws is, nevertheless, subject to levy by the United States for collection of its taxes.

(d) *Levy allowed on principal residence.* The principal residence of the taxpayer is not exempt from levy if—

(1) A district director or an assistant district director personally approves, in writing, the levy on such property; or

(2) The district director determines that the collection of tax is in jeopardy.

(e) *Inflation adjustment.* For any calendar year beginning after December 31, 1997, each dollar amount referred to in paragraphs (a)(2) and (3) of this section will be increased by an amount

equal to the dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year (substituting “calendar year 1996” for “calendar year 1992” in section 1(f)(3)(B)). If any dollar amount as adjusted is not a multiple of \$10, the dollar amount will be rounded to the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

(f) *Effective date.* Generally, these provisions are applicable with respect to levies made on or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by the regulations in this section prior to February 21, 1995, will be considered as meeting the requirements of the regulations in this section. In addition, paragraphs (a)(2), (3), (11)(i) and (e) of this section are applicable with respect to levies issued after December 31, 1996.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7180, 37 FR 7319, Apr. 13, 1972; T.D. 7182, 37 FR 7887, Apr. 21, 1972; T.D. 7620, 44 FR 27988, May 14, 1979; T.D. 8568, 59 FR 53088, Oct. 21, 1994; T.D. 8725, 62 FR 39117, July 22, 1997]

§ 301.6334-2 Wages, salary, and other income.

(a) *In general.* Under section 6334 (a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary, or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b) of this section) and how exempt amounts are to be paid to the taxpayer (paragraph (c) of this section). Section 301.6334-3 describes that sum that will be exempt from levy for each of the taxpayer's pay periods. Pay periods are described in § 301.6334-3. For the amounts exempt from levy, see § 301.6334-3.

(b) *Eligible taxpayer income.* Only wages, salary, or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under section 6334(a)(9). No amount of wages, salary, or other income that is paid to the taxpayer before levy is made on the payor will be so exempt from levy under section 6334(a)(9). The provisions of this paragraph (b) may be illustrated by the following example:

Example. Delinquent taxpayer A, an individual, is employed by the M Corporation and is paid wages on Friday of each week. Accordingly, A is paid wages on Friday, February 16, 1990. On Saturday, February 17, A deposits these wages into his personal checking account at Bank N. On Tuesday, February 20, a notice of levy is served on the M Corporation and also on Bank N. Amounts payable to A as wages on Friday, February 23, 1990, and any payday thereafter may be exempt from levy under section 6334(a)(9). No amount of wages A deposited in his account at Bank N on February 17, 1990, is exempt from levy under section 6334(a)(9).

(c) *Payment of exempt amounts to taxpayer*—(1) *From wages, salary, or income from other sources where levy on all sources not made.* In the case of a taxpayer who has more than one source of wages, salary, or other income, the district director may elect to levy on only one or more sources while leaving other sources of income free from levy. If the wages, salary, or other income that the district director leaves free from levy equal or exceed the amount to which the taxpayer is entitled as an exemption from levy under section 6334(a)(9), computed in accordance with § 301.6334-3 (and are not otherwise exempt), the district director may treat no amount of the taxpayer's wages, salary, or other income on which the district director elects to levy as exempt from levy. In such a case, the district director must notify the employer or other person upon whom the levy is served that no amount of the taxpayer's wages, salary, or other income is exempt from levy. The employer or other person upon whom the levy is served may rely on such notification in paying over amounts pursuant to the levy. In the absence of such notification from the district director, however, the employer or other person upon whom the levy is served must determine the amount exempt from levy pursuant to § 301.6334-3 as if that employer or other person upon whom the levy is served is the only source of wages, salary, or other income. Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy. The provisions of this paragraph (c)(1) may be illustrated by the following example:

Example. Delinquent taxpayer C is an employee of O Corporation and is paid wages totalling \$450 on Friday of each week. C also performs services for P Corporation and is paid a salary of \$250 on Friday of each week. On Tuesday, February 20, 1990, a levy is served on O Corporation with respect to the wages payable to C. A levy is not served on P Corporation. C's filing status is single and C is entitled to 1 personal exemption. Under § 301.6334-3, C is entitled to an exemption from levy under 6334(a)(9) totalling \$101.92 for each weekly pay period. However, because levy has not been made on C's salary paid by the P Corporation (\$250 per week) and that salary exceeds the weekly amount (\$101.92) to which C is entitled as exempt from levy, the district director may treat no amount of C's wages paid by the O Corporation as exempt from levy. If the district director requires such treatment, the district director must notify O Corporation that no amount of C's wages is exempt from levy and O Corporation may rely on such notification; in the absence of such notification O Corporation must treat \$101.92 as exempt from levy.

(2) *Where sources not levied upon are less than exempt amount.* If the taxpayer's income upon which the district director does not levy is less than the amount to which the taxpayer is entitled as exempt from levy, then an additional amount, determined to be exempt from levy pursuant to § 301.6334-3, may be paid to the taxpayer from the sources of wages, salary, or other income upon which levy has been made. In such a case, the district director must designate those wages, salary, or other income from which the exempt amount is to be paid to the taxpayer, and must notify the employer or other person upon whom the levy is served of the amount of the taxpayer's wages, salary, or other income that is exempt from levy. The employer or other person may rely on such notification in paying over amounts pursuant to the levy. In the absence of such notification from the district director, the employer or other person upon whom the levy is served must determine the amount exempt from levy pursuant to § 301.6334-3 as if that employer or other person upon whom the levy is served is the only source of wages, salary, or other income. Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy. The provisions of this paragraph (c)(2) may be illustrated by the following example:

Example. Delinquent taxpayer C is an employee of O Corporation and is paid wages totalling \$50 on Friday of each week. C also performs services for P Corporation and is paid a salary of \$75 on Friday of each week. On Tuesday, February 20, 1990, a levy is served on P Corporation with respect to the wages and salary of C. C's filing status is single and C is entitled to 1 personal exemption. Under § 301.6334-3, C is entitled to an exemption from levy under section 6334(a)(9) totalling \$101.92 for each weekly pay period. The district director may notify P Corporation that only \$51.92 of C's wages is exempt from levy and P Corporation may rely on such notification; in the absence of such notification, P Corporation must treat the entire \$75 salary as exempt from levy.

(d) *Effective date.* These provisions are effective with respect to levies made on or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by these regulations prior to February 21, 1995 will be considered as meeting the requirements of these regulations.

[T.D. 8568, 59 FR 53088, Oct. 21, 1994]

§ 301.6334-3 Determination of exempt amount.

(a) *Individuals paid on weekly basis.* In the case of any individual who is paid or receives all of his or her wages, salary, and other income on a weekly basis, the amount of wages, salary, and other income payable to or received by him or her during any week that is exempt from levy under section 6334(a)(9) is the exempt amount.

(b) *Term defined.* The term *exempt amount* means an amount equal to—

(1) The sum of—

(i) The standard deduction (including additional standard deductions on account of age or blindness); and

(ii) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(2) Divided by 52.

(c) *Written and properly verified statement.* Unless the taxpayer submits to the employer for forwarding to the district director a written and properly verified statement (as described in § 301.6334-4) specifying the facts necessary to determine the proper amount under paragraphs (b)(1) (i) and (ii) of

this section, paragraphs (b)(1) (i) and (ii) of this section must be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(d) *Individuals paid on basis other than weekly—(1) In general.* In the case of an individual who is paid or receives wages, salary, and other income other than on a weekly basis, the amount payable to that individual during any applicable pay period that is exempt from levy under section 6334(a)(9) is the amount that as nearly as possible will result in the same total exemption from levy for such individual over that period of time other than weekly as that to which the individual would have been entitled under paragraph (b) of this section if, during such period of time, the individual were paid or received such wages, salary, and other income on a regular weekly basis.

(2) *Specific pay periods other than weekly.* In the case of wages, salary, or other income paid to an individual on the basis of an established calendar period regularly used by the employer or other person levied upon for payroll or payment purposes, the exempt amount of wages, salary, and other income payable to or received by an individual during an applicable pay period other than weekly equals—

(i) The sum of—

(A) The standard deduction (including additional standard deductions on account of age or blindness); and

(B) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(ii) Divided by—

(A) 260 in the case of a daily pay period;

(B) 26 in the case of a bi-weekly pay period;

(C) 24 in the case of a semi-monthly pay period; and

(D) 12 in the case of a monthly pay period.

(3) *Nonspecific pay periods.* In the case of wages, salary, or other income paid to an individual on a one-time or a recurrent but irregular basis and which is not paid on the basis of an established calendar period regularly used by the employer or other person levied