

§ 301.6334-3

26 CFR Ch. I (4-1-02 Edition)

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 upon for payroll or payment purposes, the exempt amount of wages, salary, and other income payable to or received by an individual equals the exempt amount defined in paragraph (b) of this section multiplied by the number (but not more than 52) of full weeks (consisting of seven calendar days) to which such payment is attributable. The provisions of this paragraph (d)(3) may be illustrated by the following example:

Example. Taxpayer A's exempt amount per week (as determined under paragraph (b) of this section) is \$100. Taxpayer A is hired by Corporation X to perform a specific task for Corporation X at a flat fee of \$1,500 which is to be paid at the completion of the task. Taxpayer A completes the task in 10 weeks. The total exempt amount is \$1,000 and \$500 is subject to levy.

(e) *Levies continuing into following years.* The exempt amount is computed on the basis of the standard deduction (including additional standard deductions on account of age or blindness) for the taxpayer's filing status and the amount of the deduction for a personal exemption in effect in the taxable year in which the original notice of levy is served. Unless the taxpayer submits a new verified statement in accordance with §301.6334-4, the exempt amount remains the same for pay periods following the pay period in which the notice of levy is served even if there is a change in the taxpayer's factual situation or a change by operation of law (such as by indexing or otherwise) to the standard deduction or personal exemption amounts.

(f) *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

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meeting the requirements of these regulations.

[T.D. 8568, 59 FR 53089, Oct. 21, 1994]

§ 301.6334-4 Verified statements.

(a) *In general.* For purposes of §§ 301.6334-2 and 301.6334-3, the amount of wages, salary, or other income that is exempt from levy must be determined on the basis of a written and properly verified statement submitted by the taxpayer to his or her employer for submission to the district director specifying the facts necessary to determine the standard deduction and the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which the levy is served. In the absence of submission of such statement, the amount that is exempt from levy must be determined as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(b) *Content of statement.* The statement in paragraph (a) of this section must be a written statement signed under penalty of perjury, and dated, containing the following information—

(1) The filing status of the taxpayer as either:

- (i) Single;
- (ii) Married filing a joint return;
- (iii) Married filing a separate return;
- (iv) Head of household; or
- (v) Qualifying widow or widower with dependent child;

(2) The name, relationship, and Social Security Number of each individual whom the taxpayer can claim as a personal exemption on the taxpayer's income tax return; and

(3) Any additional standard deductions that the taxpayer can claim on account of age (65 or older) or blindness on the taxpayer's income tax return.

(c) *Submission of verified statement—(1) Obligation of employer.* An employer upon whom a notice of levy for wages, salary, or other income of a taxpayer is served must promptly notify the taxpayer of the fact that a notice of levy has been served. Unless otherwise indicated on the face of the notice of levy, the employer must request the taxpayer to provide the employer with a written statement signed under penalty of perjury, and dated, containing

the information set forth in paragraph (b) of this section, and this statement must be submitted by the employer to the district director. The employer must submit this statement to the district director at the time the employer first responds to the notice of levy.

(2) *Submission by taxpayer.* The taxpayer must provide the employer upon whom the notice of levy has been served with a verified statement complying with paragraph (b) of this section. Unless the taxpayer provides a verified statement, the amount that is exempt from levy must be determined as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(3) *Additional statements.* A taxpayer may submit a verified statement to his or her employer at any time. Except as otherwise provided in paragraph (d) of this section, such verified statement will be effective for any payment of wages, salary, or other income made after the date of submission and will replace any previously submitted verified statement. The employer must provide the district director with the statement on the next occasion on which the employer responds to the notice of levy.

(d) *Effect of verified statement—(1) A verified statement submitted by an employee is effective upon receipt by the employer, and the employer is required to compute the exempt amount on the basis of the information contained in the verified statement unless notified to the contrary by the Internal Revenue Service.*

(2) The Internal Revenue Service may find that a verified statement submitted by an employee contains a materially incorrect statement, or it may determine, after written request to the employee for verification of information contained in the verified statement, that it lacks sufficient information to determine whether the verified statement is correct. If the Internal Revenue Service so finds or determines, and notifies the employer in writing that the verified statement is defective, upon receipt of such notice the employer shall consider the verified statement to be defective for purposes of computing the exempt amount.