

§ 31.3402(f)(6)-1

Form W-4 was filed by the named employee. The hardcopy of the electronic Form W-4 must provide exactly the same information as, but need not be a facsimile of, the paper Form W-4.

(3) *Effective date*—(i) *In general.* This paragraph applies to all withholding exemption certificates filed electronically by employees on or after January 2, 1997.

(ii) *Special rule for certain Forms W-4.* In the case of an electronic system that precludes the filing of Forms W-4 required on commencement of employment and Forms W-4 claiming more than 10 withholding exemptions or exemption from withholding, the requirements of paragraph (c)(2)(iii) of this section will be treated as satisfied if the Form W-4 is filed electronically before January 1, 1999.

[T.D. 7423, 41 FR 26217, June 25, 1976, as amended by T.D. 7915, 48 FR 44074, Sept. 27, 1983; T.D. 8706, 62 FR 24, Jan. 2, 1997]

§ 31.3402(f)(6)-1 Withholding exemptions for nonresident alien individuals.

A nonresident alien individual (other than, in regard to wages paid after February 28, 1979, a nonresident alien individual treated as a resident under section 6013(g) or (h)) subject to withholding under section 3402 is on any 1 day entitled under section 3402(f)(1) and § 31.3402(f)(1)-1 to the number of withholding exemptions corresponding to the number of personal exemptions to which he is entitled on such day by reason of the application of section 873(b)(3) or section 876, whichever applies. Thus, a nonresident alien individual who is not a resident of Canada or Mexico and who is not a resident of Puerto Rico during the entire taxable year, is allowed under section 3402(f)(1) only one withholding exemption.

[T.D. 6908, 31 FR 16776, Dec. 31, 1966, as amended by T.D. 7670, 45 FR 6932, Jan. 31, 1980]

§ 31.3402(g)-1 Supplemental wage payments.

(a) *In general.* (1) An employee's remuneration may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period, or without regard to

a particular period. When such supplemental wages are paid (whether or not at the same time as the regular wages) the amount of the tax required to be withheld under section 3402(a) (the percentage method) or under section 3402(c) (the wage bracket method) shall be determined in accordance with this paragraph or paragraph (b) of this section.

(2) The supplemental wages, if paid concurrently with wages for a payroll period, shall be aggregated with the wages paid for such payroll period. If not paid concurrently, the supplemental wages shall be aggregated with the wages paid or to be paid within the same calendar year for the last preceding payroll period or for the current payroll period. The amount of tax to be withheld shall be determined as if the aggregate of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

Example 1. A, a single person, is employed as a salesman at a monthly salary of \$130 plus commissions on sales made during the month. The number of withholding exemptions claimed is one. During May 1966 A earns \$300 in commissions, which together with the salary of \$130 is paid on June 10, 1966. Under the wage bracket method the amount of the tax required to be withheld is shown in the table applicable to a monthly payroll period with respect to an employee who is not married. Under this table it will be found that the amount of tax required to be withheld is \$58.40.

Example 2. B, a married person, is employed at a salary of \$3,600 per annum paid semimonthly on the 15th day and the last day of each month, plus a bonus and commission determined at the end of each 3-month period. The bonus and commission for the 3-month period ending on September 30, 1966, amount to \$250, which is paid on October 10, 1966. B has in effect a withholding exemption certificate on which he claimed four withholding exemptions and disclosed that he is married. Under the wage bracket method, the amount of tax required to be withheld on the aggregate of the bonus of \$250 and the last preceding semimonthly wage payment of \$150, or \$400, is shown in the table applicable to a married person with a semimonthly payroll period to be \$44.50. However, since tax in the amount of \$3.50 was withheld on the semimonthly wage payment of \$150, the amount to be withheld on October 10, 1966, is \$41.00.

If, however, supplemental wages are paid and tax has been withheld from the employee's regular wages, the employer may determine the tax to be withheld—

(i) From supplemental wages paid prior to May 1, 1966, by using the rate in effect under section 3402(a) at the time the wages are paid, and

(ii) From supplemental wages paid after April 30, 1966, by using a flat percentage rate of 20 percent,

without allowance for exemption and without reference to any regular payment of wages.

(3) For provisions relating to the treatment of wages paid other than in cash to retail commission salesmen, see § 31.3402(j)-1.

(b) *Special rule where aggregate withholding exemption exceeds wages paid.* (1) If supplemental wages are paid to an employee during a calendar year for a period which involves two or more consecutive payroll periods, for which other wages also are paid during such calendar year, and the aggregate of such other wages is less than the aggregate of the amounts determined under the table provided in section 3402(b) (1) as the withholding exemptions applicable for such payroll periods, the amount of the tax required to be withheld on the supplemental wages shall be computed as follows:

Step 1. Determine an average wage for each of such payroll periods by dividing the sum of the supplemental wages and the wages paid for such payroll periods by the number of such payroll periods.

Step 2. Determine a tax for each payroll period as if the amount of the average wage constituted the wages paid for such payroll period.

Step 3. From the sum of the amounts of tax determined in Step 2 subtract the total amount of tax withheld, or to be withheld, from the wages, other than the supplemental wages, for such payroll periods. The remainder, if any shall constitute the amount of the tax to be withheld upon the supplemental wages.

Example. An employee has a weekly payroll period ending on Saturday of each week, the wages for which are paid on Friday of the succeeding week. On the 10th day of each month he is paid a bonus based upon production during the payroll periods for which wages were paid in the preceding month. The employee is paid a weekly wage of \$64 on each of the five Fridays occurring in July 1966. On August 10, 1966, the employee is paid

a bonus of \$125 based upon production during the five payroll periods covered by the wages paid in July. On the date of payment of the bonus, the employee, who is married and has three children, has a withholding exemption certificate in effect indicating that he is married and claiming five withholding exemptions. The amount of the tax to be withheld from the bonus paid on August 10, 1966, is computed as follows:

Wages paid in July 1966 for 5 payroll periods (5×\$64)	\$320.00
Bonus paid August 10, 1966	125.00
	445.00
Aggregate of wages and bonus	445.00
Average wage per payroll period (\$445÷5)	89.00
Computation of tax under percentage method:	
Withholding exemptions (5×\$13.50)	67.50
	21.50
Remainder subject to tax	21.50
Tax on average wage for 1 week under percentage method of withholding (married person with weekly payroll period) 14 percent of \$17.50 (excess over \$4)	2.45
Tax on average wage for 5 weeks	12.25
Less: Tax previously withheld on weekly wage payments of \$64	None
Tax to be withheld on supplemental wages	12.25
Computation of tax under wage bracket method:	
Tax on \$89 wage under weekly wage table for married person (\$2.50 per week for 5 weeks)	12.50
Less: Tax previously withheld on weekly wage payments of \$64	None
Tax to be withheld on supplemental wages	12.50

(2) The rules prescribed in this paragraph shall, at the election of the employer, be applied in lieu of the rules prescribed in paragraph (a) of this section except that this paragraph shall not be applicable in any case in which the payroll period of the employee is less than one week.

(c) *Vacation allowances.* Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the rules applicable with respect to supplemental wage payments shall apply to such vacation allowance.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6860, 30 FR 13947, Nov. 4, 1965; T.D. 6882, 31 FR 5661, Apr. 12, 1966]

§ 31.3402(g)-2 Wages paid for payroll period of more than one year.

If wages are paid to an employee for a payroll period of more than one year,