

### § 31.3504-1

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

who is liable for tax for such period under chapter 22 or corresponding provisions of prior law, or

(b) Under chapter 22 or corresponding provisions of prior law by a person who is not liable for tax for such period under such chapter or prior law, but who is liable for tax for such period under chapter 21 or corresponding provisions of prior law,

the amount so paid shall be credited against the tax for which such person is liable and the balance, if any, shall be refunded. Each claim for refund or credit under this section shall be made on Form 843 and in accordance with § 31.6402(a)-2 and the applicable provisions of section 6402(a) and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration).

#### § 31.3504-1 Acts to be performed by agents.

(a) *In general.* In the event wages as defined in chapter 21 or 24 of the Internal Revenue Code of 1954, or compensation as defined in chapter 22 of such Code, of an employee or group of employees, employed by one or more employers, is paid by a fiduciary, agent, or other person, or if such fiduciary, agent, or other person has the control, receipt, custody, or disposal of such wages, or compensation, the district director, or director of a service center, may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of such employer or employers under those provisions of the Internal Revenue Code of 1954 and the regulations thereunder which have application, for purposes of the taxes imposed by such chapter or chapters, in respect of such wages or compensation. If the fiduciary, agent, or other person is authorized by the district director, or director of a service center, to perform such acts, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to employers in respect of such acts shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person performs such acts shall remain subject to all provi-

sions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to an employer in respect of such acts. Any application for authorization to perform such acts, signed by such fiduciary, agent, or other person, shall be filed with the district director, or director of a service center, with whom the fiduciary, agent, or other person will, upon approval of such application, file returns in accordance with such authorization.

(b) *Prior authorizations continued.* An authorization in effect under section 1632 of the Internal Revenue Code of 1939 on December 31, 1954, continues in effect under section 3504 and is subject to the provisions of paragraph (a) of this section.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7012, 34 FR 7693, May 15, 1969]

#### § 31.3505-1 Liability of third parties paying or providing for wages.

(a) *Personal liability in case of direct payment of wages—(1) In general.* A lender, surety, or other person—

(i) Who is not an employer for purposes of section 3102 (relating to deduction of tax from wages under the Federal Insurance Contributions Act), section 3202 (relating to deduction of tax from compensation under the Railroad Retirement Tax Act), or section 3402 (relating to deduction of income tax from wages) with respect to an employee or group of employees, and

(ii) Who pays wages on or after January 1, 1967, directly to such employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees,

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes required to be deducted and withheld from those wages by the employer under subtitle C of the Code and interest from the due date of the employer's return relating to such taxes for the period in which the wages are paid.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

*Example.* Pursuant to a wage claim of \$200, A, a surety company, paid a net amount of \$158 to B, an employee of the X Construction