



voluntary payment of certain Federal taxes by EFT. The regulations would provide the public with additional guidance needed to make deposits by EFT and would affect certain taxpayers not previously required to make deposits by EFT. The text of these temporary regulations also serves as the text of a cross-reference notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, 202-622-6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

*Background*

On July 11, 1994, the IRS issued Treasury Decision 8553 (59 FR 35414), setting forth temporary regulations relating to the deposit of Federal taxes by EFT. Those temporary regulations explained which taxpayers must make deposits by electronic funds transfer, which taxes must be so deposited, and when the deposits must commence. The text of those temporary regulations also served as the text of a cross-reference notice of proposed rulemaking published in the same issue of the Federal Register at 59 FR 35418.

The IRS received many comment letters in response to the publication of those temporary regulations. In addition, a number of oral comments were made at the public hearing held on October 3, 1994. With limited exceptions, those comments will not be addressed in this document, but instead will be addressed in final regulations that the IRS expects to publish in the near future.

Under the temporary regulations currently in place, the requirement to begin EFT deposits is based on the taxpayer's total deposits of the taxes imposed by chapters 21 (FICA taxes), 22 (railroad retirement taxes) and 24 (income tax withheld at source) of the Internal Revenue Code during certain "determination periods." If the taxpayer's deposits of those taxes during a determination period exceed a prescribed dollar threshold, the taxpayer must begin to deposit by EFT on and after the applicable effective date prescribed in the temporary regulations, unless otherwise exempted.

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**Section 6302.—Mode or Time of Collection**

*26 CFR 1.6302-4T: Use of financial institutions in connection with individual income taxes (temporary).*

**T.D. 8661**

**DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Parts 1 and 31**

**Federal Tax Deposits by Electronic Funds Transfer**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the deposit of Federal taxes by electronic funds transfer (EFT) under section 6302 of the Internal Revenue Code. The document also includes temporary regulations providing authority for the

The amendments to the temporary regulations set forth in this document provide a special rule for any taxpayer that does not make deposits of the taxes imposed by chapters 21, 22, and 24, but that does make deposits of other taxes required to be deposited pursuant to regulations issued under

section 6302 (for instance, corporate income taxes). If the taxpayer's total deposits for all other depository taxes during a prescribed determination period exceed a prescribed dollar threshold, the taxpayer must begin depositing by EFT on and after the applicable effective date prescribed in

these amendments to the temporary regulations, unless otherwise exempted. (A taxpayer will become subject to the EFT requirement for the January 1, 1998, applicable effective date by exceeding the threshold amount during either calendar year 1995 or calendar year 1996.) The phase-in schedule is as follows:

<i>Threshold Amount</i>	<i>Determination Period</i>	<i>Applicable Effective Date</i>
\$50 thousand	1-1-95 to 12-31-95	January 1, 1998
\$50 thousand	1-1-96 to 12-31-96	January 1, 1998
\$20 thousand	1-1-97 to 12-31-97	January 1, 1999

The current temporary regulations provide that a taxpayer subject to the EFT requirement must use EFT for all deposits required to be made on and after the applicable effective date. This requirement may subject a taxpayer to two different modes of deposit with respect to the same return period. For example, assume an employer is required to deposit by EFT beginning with the January 1, 1997, applicable effective date. The employer pays its employees weekly and has a payday on December 31, 1996. The employment taxes incurred for that payday would be reportable on the fourth quarter 1996 Form 941, but the due date for the deposit of those taxes would occur in early January 1997. Under the current rule, all the deposits relating to the fourth quarter 1996 Form 941 would be made by paper coupon (FTD coupon) with the exception of the deposit for the December 31 payroll, which would be made by EFT. For purposes of consistency, this rule is being changed with respect to the January 1, 1997, applicable effective date and thereafter to provide that the first deposit required to be made by EFT is the first deposit with respect to a deposit obligation incurred for a return period beginning on or after the applicable effective date. Thus, under the revised rule, the deposit with respect to the December 31 payday in the example would be made by FTD coupon rather than by EFT.

The current temporary regulations provide that a deposit by EFT is deemed made (i) at the time a debit is made (the amount is withdrawn from the taxpayer's account) if the Government's authorized financial agent debits the taxpayer's account; or (ii) in all other cases, at the time the funds are

credited to the Treasury's general account. Comments by the Federal Reserve Board, the Financial Management Service, and IRS personnel recommended a clarification of that provision. Based on those recommendations, the current temporary regulations are amended to provide that a deposit by EFT is deemed made (i) at the time a debit is made (the amount is withdrawn from the taxpayer's account and not returned or reversed) if the Government's authorized agent originates a debit entry which instructs the taxpayer's financial institution to debit the taxpayer's account for a Federal tax payment; or (ii) in all other cases (assuming the amount is not returned or reversed), either at the time the funds are paid into the Treasury's general account at the Federal Reserve Bank of New York or at the time the funds are invested under Treasury's Tax and Loan program (see 31 CFR Part 203). Investment occurs when the funds are credited by the Federal Reserve Bank to the depository institution's note balance.

These temporary regulations also define the term *taxpayer*. For purposes of the EFT requirement, a taxpayer is any person required to deposit federal taxes, including not only individuals, but also any trust, estate, partnership, association, company or corporation. This definition responds to numerous inquiries following the issuance of the current temporary regulations.

Sections 31.6302-1T(h)(2) (describing the taxes required to be deposited by EFT) and 31.6302-1T(h)(8) (describing when a deposit of tax by EFT is deemed to be a payment of tax) have been revised solely for purposes of

clarity. No substantive change is being made to either of the provisions.

These temporary regulations allow individual taxpayers to make voluntary payments of income tax by EFT, even though individual income tax is not required to be deposited with a government depository. The voluntary EFT payments are to be made in accordance with instructions provided in procedures to be prescribed by the Commissioner at a future date.

#### *Special Analyses*

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these rules and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### *Drafting Information*

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

*Adoption of Amendments to the Regulations.*

Accordingly, 26 CFR parts 1 and 31 are amended as follows:

**PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805

Section 1.6302-4T also issued under 26 U.S.C. 6302(a) and (c)

Par. 2. Section 1.6302-4T is added to read as follows:

*§1.6302-4T Use of financial institutions in connection with individual income taxes (temporary).*

*Voluntary payments by electronic funds transfer.* An individual may voluntarily remit by electronic funds transfer all payments of tax imposed by subtitle A of the Code, including any payments of estimated tax. Such payments must be made in accordance with procedures to be prescribed by the Commissioner.

**PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE**

Par. 3. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805

Par. 4. Section 31.6302-1T is amended as follows:

1. Paragraph (h)(1)(ii)(A) is redesignated as paragraph (h)(1)(ii)(A)(I); the first sentence in newly designated paragraph (h)(1)(ii)(A)(I) is removed, and three new sentences are added in its place; and, in the last sentence of the newly designated paragraph, the text preceding the table is revised.

2. Paragraph (h)(1)(ii)(A)(2) is added.

3. Paragraphs (h)(2), (h)(3), (h)(7) and (h)(8) are revised.

The additions and revisions read as follows:

*§31.6302-1T Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA)—deposits required to be made by electronic funds transfer after December 31, 1994 (temporary).*

(h) (1)  
(ii) *Periods after December 31, 1994.* (A)(I) Taxpayers whose aggregate deposits of the taxes imposed by Chapters 21 (Federal Insurance Contributions Act), 22 (Railroad Retirement Tax Act), and 24 (Collection of Income Tax at Source on Wages) of the Internal Revenue Code during a 12-month determination period exceed the applicable threshold amount are required to deposit all depository taxes described in paragraph (h)(2) of this section by electronic funds transfer (as defined in paragraph (h)(3) of this section) unless exempted under paragraph (h)(4) of this section. If the

applicable effective date is January 1, 1995, or January 1, 1996, the requirement to deposit by electronic funds transfer applies to all deposits required to be made on and after the applicable effective date. If the applicable effective date is January 1, 1997, or thereafter, the requirement to deposit by electronic funds transfer applies to all deposits required to be made with respect to deposit obligations incurred for return periods beginning on and after the applicable effective date.

The threshold amounts, determination periods and applicable effective dates for purposes of this paragraph (h)(1)(ii)(A)(I) are as follows:

(2) Unless exempted under paragraph (h)(4) of this section, a taxpayer that does not deposit any of the taxes imposed by chapters 21, 22, and 24 during the applicable determination periods set forth in paragraph (h)(1)(ii)(A)(I) of this section, but that does make deposits of other depository taxes (as described in paragraph (h)(2) of this section), is nevertheless subject to the requirement to deposit by electronic funds transfer if the taxpayer's aggregate deposits of all depository taxes exceed the threshold amount set forth in this paragraph (h)(1)(ii)(A)(2) during an applicable 12-month determination period. This requirement to deposit by electronic funds transfer applies to all depository taxes due with respect to deposit obligations incurred on and after the applicable effective date. The threshold amount, determination periods, and applicable effective dates for purposes of this paragraph (h)(1)(ii)(A)(2) are as follows:

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*Threshold Amount*

\$50 thousand  
\$50 thousand  
\$20 thousand

*Determination Period*

1-1-95 to 12-31-95  
1-1-96 to 12-31-96  
1-1-97 to 12-31-97

*Applicable Effective Date*

January 1, 1998  
January 1, 1998  
January 1, 1999

(2) *Taxes required to be deposited by electronic funds transfer.* The requirement to deposit by electronic funds transfer under paragraph (h)(1)(ii) of this section applies to all the taxes required to be deposited under §§1.6302-1, 1.6302-2, and 1.6302-3 of this chapter; §§31.6302-1, 31.6302-2, 31.6302-3, 31.6302-4, and 31.6302(c)-3; and §40.6302(c)-1 of this chapter.

(3) *Definitions*—(i) *Electronic funds transfer.* An *electronic funds transfer* is any transfer of depository taxes made in accordance with Revenue Procedure 94-48 (1994-2 C.B. 694), (see §601.601-(d)(2) of this chapter), or in accordance with procedures subsequently prescribed by the Commissioner.

(ii) *Taxpayer.* For purposes of this section, a *taxpayer* is any person required to deposit federal taxes, including not only individuals, but also any trust, estate, partnership, association, company or corporation.

(7) *Time deemed deposited.* A deposit of taxes by electronic funds transfer will be deemed made—

(i) At the time a debit is made (the amount is withdrawn from the taxpayer's account and not returned or reversed) if the Government's authorized agent originates a debit entry which instructs the taxpayer's financial institution to debit the taxpayer's account for a Federal tax payment; or

(ii) In all other cases (assuming the amount is not returned or reversed), either at the time that the funds are paid into the Treasury's general account at the Federal Reserve Bank of New York, or at the time that the funds are invested under Treasury's Tax and Loan program (see 31 CFR Part 203). Investment occurs when the funds are credited by the Federal Reserve Bank to the depository institution's note balance.

(8) *Time deemed paid.* In general, an amount deposited under this paragraph (h) will be considered to be a payment of tax on the last day prescribed for filing the applicable return for the

return period (determined without regard to any extension of time for filing the return) or, if later, at the time deemed deposited under paragraph (h)(7) of this section. In the case of the taxes imposed by chapters 21 and 24 of the Internal Revenue Code, solely for purposes of section 6511 and the regulations thereunder (relating to the period of limitation on credit or refund), if an amount is deposited prior to April 15th of the calendar year immediately succeeding the calendar year that includes the period for which the amount was deposited, the amount will be considered paid on April 15th.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved December 22, 1995.

Leslie Samuels,  
*Assistant Secretary of the Treasury.*

(Filed by the Office of the Federal Register on March 20, 1996, 8:45 a.m., and published in the issue of the Federal Register for March 21, 1996, 61 F.R. 11548)