

under paragraph (i)(4) of this section)/75u passive earnings). After the inclusion and deemed-paid taxes are computed, at the close of 1998 CFC has 100u of general limitation earnings, 0 of passive limitation earnings (100u of foreign personal holding company income — 100u inclusion), and a (50u) deficit in shipping limitation earnings.

Example 2. (i) The facts are the same as in Example 1 with the addition of the following facts. In 1999, CFC distributes 150u to A. CFC has 100u of previously-taxed earnings and profits described in section 959(c)(2) attributable to 1998, all of which is passive limitation earnings and profits. Under section 959(c), 100u of the 150u distribution is deemed to be made from earnings and profits described in section 959(c)(2). The remaining 50u is deemed to be made from earnings and profits described in section 959(c)(3). The entire dividend distribution of 50u is treated as made out of CFC's general limitation earnings and profits. See section 904(d)(3)(D).

(ii) For purposes of computing post-1986 undistributed earnings under section 902 with respect to the 1999 dividend of 50u, the shipping limitation accumulated deficit of (50u) reduces general limitation earnings and profits of 100u to 50u. Thus, 100% of CFC's post-1986 foreign income taxes with respect to general limitation earnings are deemed paid by A under section 902 with respect to the 1999 dividend of 50u (50u dividend/50u general limitation earnings). After the deemed-paid taxes are computed, at the close of 1999 CFC has 50u of general limitation earnings (100u opening balance—50u distribution), 0 of passive limitation earnings, and a (50u) deficit in shipping limitation earnings.

(6) *Effective date.* This paragraph (i) applies to taxable years of a controlled foreign corporation beginning after March 3, 1997.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved: December 11, 1996.

Donald C. Lubick,

*Assistant Secretary of the Treasury.*

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## 26 CFR Parts 31 and 602

[TD 8706]

RIN 1545-AR67

### Electronic Filing of Form W-4

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to Form W-4, Employee's Withholding Allowance Certificate. The final regulations authorize employers to establish electronic systems for use by employees in filing their Forms W-4. The regulations provide employers and

employees with guidance necessary to comply with the law. The regulations affect employers that establish electronic systems and their employees.

**EFFECTIVE DATE:** These final regulations are effective January 2, 1997.

**FOR FURTHER INFORMATION CONTACT:** Karin Loverud, (202) 622-6060 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1435. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated annual burden per respondent is 20 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

##### Background

On April 15, 1994, a notice of proposed rulemaking [EE-45-93] containing proposed regulations relating to Form W-4, Employee's Withholding Allowance Certificate, was published in the Federal Register (59 FR 18057).

On December 21, 1994, temporary regulations (TD 8577) clarifying the existing proposed regulations were published in the Federal Register (59 FR 65712). A notice of proposed rulemaking (EE-45-93) cross-referencing the temporary regulations was published in the Federal Register for the same day (59 FR 65740).

Written comments responding to these notices were received. Public hearings were requested and were held on July 15, 1994, and November 7, 1995.

After consideration of all the comments, the proposed regulations under section 3402(f) are adopted as revised by this Treasury decision. The comments and revisions are discussed below.

#### Explanation of Revisions and Summary of Comments

##### 1. Relationship between paper and electronic Forms W-4

A withholding exemption certificate (Form W-4) may be in either paper or electronic form. Therefore, an employee will furnish a Form W-4 to the employer either on paper or electronically. To clarify that an electronic Form W-4 has the same status as a paper Form W-4, the final regulations make minor revisions to § 31.3402(f)(5)-1, Form and contents of withholding exemption certificates. Further, the final regulations appear as § 31.3402(f)(5)-1(c), rather than in a separate regulations section limited to electronic forms.

##### 2. Electronic filing by all employees.

The existing proposed and temporary regulations require employers that establish electronic systems to provide employees with the option of filing paper or electronic Forms W-4. Several commentators requested that employers be allowed to adopt systems under which all employees file Forms W-4 electronically. These commentators stated that a system under which all employees file electronically would reduce employer burden in terms of costs and time (for example, eliminate maintenance of duplicative paper and electronic systems). Similarly, it would reduce employee burden in terms of time and choosing a filing option.

The IRS and Treasury want to assist in reducing burdens on both employers and employees and to make it as easy as possible for employers to adopt less burdensome systems. The final regulations permit an employer to adopt a system under which all employees file Forms W-4 electronically. The IRS and Treasury expect, however, that an employer will make a paper option reasonably available upon request to any employee who has a serious objection to using the electronic system or whose access to, or ability to use, the system may be limited (for example, as a result of a disability). The paper option would be satisfied, for example, if the employer informs employees how they can obtain a paper Form W-4 and where they should submit the completed paper Form W-4. The IRS and Treasury also expect that employers will comply with all applicable law