

## Revenue Procedures

### Rev. Proc. 70-6, 1970-1 CB 420, IRC Sec(s). 3504

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#### Headnote:

Rev. Proc. 70-6, 1970-1 CB 420 (Also Part I, Sections 3504; 31.3504-1.)

[CAUTION: This Rev Proc has been amplified by Rev Proc 80-4, 1980-1 CB 581, Rev Proc 84-33, 1984-1 CB 502 and modified by Notice 95-18, 1995-1 CB 300.]

*Reference(s):* ¶ ??; Code Sec. 3504; Reg § 601.401

Procedures to be followed by agents in applying for authorization to perform acts required of employers under the Federal employment tax statutes and for the correction of wage reports under FICA; Revenue Procedures 57-31 superseded.

#### Full Text:

##### Section 1. Purpose.

This Revenue Procedure describes the procedure to be followed in requesting authorization to act as agent under section 3504 of the Internal Revenue Code of 1954 for purposes of Chapters 21, 22, 24, and 25, subtitle C, of the Code. Also, special instructions are set forth for employers and their authorized agents, supplementing those on Form 941c, Statement to Correct Information, for correcting wage reports under Chapter 21 of the Code.

##### Sec. 2. Background.

.01 Chapters 21, 22, 24, and 25 of the Code relate to and are entitled the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, the Collection of Income Tax at Source on Wages, and General Provisions Relating to Employment Taxes, respectively.

.02 Section 31.3504-1 of the Employment Tax Regulations as amended by T.D. 7012, C.B. 1969-2, 244, approved May 9, 1969 provides that applications for authorization to act as agent shall be filed with the District Director or Director of a Service Center with whom the agent on approval of the application will file returns. Under the regulations prior to amendment, agents requesting authorization were required to make application to the District Director.

##### Sec. 3. Procedure for Requests.

.01 Application for authorization as agent to perform acts required of an employer should be made in writing by the agent to the Director, Internal Revenue Service Center, with whom the agent will file returns upon approval of the application.

.02 The application for authorization should be accompanied by Form 2678, Employer Appointment of Agent under Section 3504 of the Internal Revenue Code, executed by each employer for whom the agent is to act (See Attachment 1). Form 2678 is available on request to any Internal Revenue Service office.

.03 The employer should submit the properly executed Form 2678 to the agent who will transmit it to the Service Center Director with a written request for authority to act as agent of such employer. The agent should insure that his employer identification number is shown in Form 2678. If he has not been assigned a number, a properly executed Form SS-4, Application for Employer Identification Number, should accompany his request.

.04 One application for authorization to act as an agent may be filed by the agent to cover more than one employer if accompanied by a properly executed Form 2678 from each of the employers.

.05 Approval of an application will be given by letter to the agent from the Service Center Director. The letter of authorization will be effective when mailed. Conversely, notice of termination of an authorization shall be considered as given when mailed by the Director, or when received by him from the agent.

#### **Sec. 4. Filing of Tax Returns.**

.01 The agent must file one return for each tax-return period with the Director of the Service Center, regardless of the number of employers for whom he is acting as agent. Returns shall include tips reported by employees to the agent and the taxable wages actually or constructively paid by the agent to employees of the employers for whom the agent acts, as well as the taxable wages and tips of the agent's own employees. (The term "wages" as used herein shall be construed to include tips and other compensation, whenever applicable.)

.02 The agent's name and identifying number are to be entered in the spaces provided on the returns, and the returns are to be completely executed.

.03 Attached to each return, as a part thereof, shall be the statement, "This return is filed under authorization granted in accordance with Section 3504 of the Internal Revenue Code of 1954."

.04 The agent shall maintain such records as will disclose the full wages paid to each employee on behalf of, and identified by, each employer for whom he acts.

.05 For purposes of excluding from the return under the Federal Insurance Contributions Act the wages paid to an employee in excess of the maximum annual taxable wages, the

wages paid to the employee shall be considered with respect to each employer separately, and not in conjunction with the wages paid to the employee on behalf of any other employer. If the agent is acting for employers under the Railroad Retirement Tax Act, he will report for each employer the taxable compensation as determined under that Act with respect to each employer.

#### **Sec. 5. Correction of Wages Reported Under Federal Insurance Contributions Act.**

.01 The agent normally will submit statements to correct wages erroneously reported by him under the Federal Insurance Contributions Act on behalf of the actual employer.<Page 421>

.02 An exception will be made whenever the aggregate wages reported for a single employee by both the employer and his agent on behalf of the employer exceed the maximum annual taxable wages. Examples of such reporting are shown in Attachment 2. In these instances, any related tax adjustment should be initiated by the employer supported by Form 941c, Statement to Correct Information, prepared in accordance with the illustration in Attachment 3. The Form 941c will be submitted by the actual employer as an attachment to his return for the tax return period in which the adjustment is reported, or with a claim for refund if adjustment is not made on a return.

.03 The illustrated adaption of Form 941c is permissible only under the circumstances described in.02 above.

#### **Sec. 6. General.**

In accordance with section 3504 of the Code, all provisions of law (including penalties) and regulations prescribed in pursuance of law, applicable with respect to an employer will be applicable to the agent, and despite the acts performed by the agent pursuant to authority granted under Section 3504, the employer will remain subject to all provisions of law (including penalties), and regulations prescribed in pursuance of law with respect to employers.

#### **Sec. 7. Inquiries.**

Inquiries concerning this Revenue Procedure should refer to its number and should be addressed to the Director, Internal Revenue Service Center, serving the district in which the agent is located.

#### **Sec. 8. Effect on Other Documents**

This Revenue Procedure supersedes Revenue Procedure 57- 31, C.B. 1957-2, 1104.

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