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request furnished to his employer pursuant to this section shall be effective, and may be acted upon by his employer, after the furnishing of such request and before a revocation thereof is effective. A revocation of such request may be made at any time by the employee furnishing his employer with a notice of revocation. The employer may give immediate effect to a revocation, but, in any event, a revocation shall be effective with respect to payments of wages made on or after the first ''status determination date'' (see section 3402(f)(3)(B)) which occurs at least 30 days after the date on which such notice is furnished.

(c) *Requests due to increases or decreases in allowances.* An employee may request pursuant to this section that his employer withhold on the basis of the employee's cumulative wages when the employee is entitled to claim an increased or decreased number of withholding allowances under §31.3402(m)–1 during the estimation year (as defined in §31.3402(m)–1(c)(1)).

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and (m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))

[T.D. 7053, 35 FR 11627, July 21, 1970, as amended by T.D. 7915, 48 FR 44074, Sept. 27, 1983]

§31.3402(h)(4)–1 Other methods.

(a) *Maximum permissible deviations.* An employer may use any other method of withholding under which the employer will deduct and withhold upon wages paid to an employee after December 31, 1969, for a payroll period substantially the same amount as would be required to be deducted and withheld by applying section 3402(a) with respect to the payroll period. For purposes of section 3402(h)(4) and this section, an amount is substantially the same as the amount required to be deducted and withheld under section 3402(a) if its deviation from the latter amount is not greater than the maximum permissible deviation prescribed in this paragraph. The maximum permissible deviation under this paragraph is determined by annualizing wages as provided in Step 1 of §31.3402(h)(2)–1 and applying the following table to the amount of tax required to be deducted and withheld under section 3402(a) with respect to such annualized wages, as determined under Step 2 of §31.3402(h)(2)–1:

If the tax required to be withheld under the annual percentage rate schedule is—	*The maximum permissible annual deviation is—*
$10 to $100	$10, plus 10 percent of excess over $10.
$100 to $1,000	$19, plus 3 percent of excess over $100.
$1,000 or over	$46, plus 1 percent of excess over $1,000.

In any case, an amount which is less than $10 more or less per year than the amount required to be deducted and withheld under section 3402(a) is substantially the same as the latter amount. If any method produces results which are not greater than the prescribed maximum deviations only with respect to some of his employees, the employer may use such method only with respect to such employees. An employer should thoroughly test any method which he contemplates using to ascertain whether it meets the tolerances prescribed by this paragraph. An employer may not use any method, one of the principal purposes of which is to consistently produce amounts to be deducted and withheld which are less (though substantially the same) than the amount required to be deducted and withheld by applying section 3402(a).

(b) *Combined FICA and income tax withholding.* In addition to the methods authorized by paragraph (a) of this section, an employer may determine the amount of tax to be deducted and withheld under section 3402 upon a payment of wages to an employee by using tables prescribed by the Commissioner which combine the amounts of tax to be deducted under sections 3102 and 3402. Such tables shall provide for the deduction of the sum of such amounts, computed on the basis of the midpoints of the wage brackets in the tables prescribed under section 3402(c). The portion of such sum which is to be treated as the tax deducted and withheld under section 3402 shall be the amount obtained by subtracting from such sum the amount of tax required to be deducted by section 3102. Such tables

may be used only with respect to payments which are wages under both sections 3121(a) and 3401(a).

(c) *Part-year employment method of withholding*—(1) *In general.* In addition to the methods authorized by other paragraphs of this section, in the case of part-year employment (as defined in subparagraph (4) of this paragraph) of an employee who determines his liability for tax under subtitle A of the Code on a calendar-year basis and who has in effect a request that the amount of tax to be withheld from his wages be computed according to the part-year employment method described in this paragraph, the employer may determine the amount of tax to be deducted and withheld upon a payment of wages made to the employee on or after January 5, 1973, by taking the following steps:

Step 1. Add the amount of wages to be paid to the employee for the current payroll period to the total amount of wages paid by the employer to the employee for all preceding payroll periods included in the current term of continuous employment (as defined in subparagraph (3) of this paragraph) of the employee by the employer;

Step 2. Divide the aggregate amount of wages computed in Step 1 by the total of the number of payroll periods to which that amount relates plus the equivalent number of payroll periods (as defined in subparagraph (2) of this paragraph) in the employee's term of continuous unemployment immediately preceding the current term of continuous employment, such term of continuous unemployment to be exclusive of any days prior to the beginning of the current calendar year;

Step 3. Determine the total amount of tax that would have been required to be deducted and withheld under section 3402 if the average amount of wages (as computed in Step 2) had been paid to the employee for the number of payroll periods determined in Step 2 (including the equivalent number of payroll periods); and

Step 4. Determine the excess, if any, of the amount of tax computed in Step 3 over the total amount of tax already deducted and withheld by the employer from wages paid to the employee for all payroll periods during the current term of continuous employment.

The use of the method described in this paragraph does not preclude the employee from claiming additional withholding allowances pursuant to section 3402(m) or the standard deduction allowance pursuant to section 3402(f)(1)(G).

(2) *Equivalent number of payroll periods.* For purposes of this paragraph, the equivalent number of payroll periods shall be determined by dividing the number of calendar days contained in the current payroll period into the number of calendar days between the later of (i) the day certified by the employee as his last day of employment prior to his current term of continuous employment during the calendar year in which such term commenced, or (ii) the last day of the calendar year immediately preceding the current calendar year, and the first day of the current term of continuous employment. For purposes of the preceding sentence, the term ''calendar days'' includes holidays, Saturdays, and Sundays. In determining the equivalent number of payroll periods, any fraction obtained in the division described in the first sentence of this subparagraph shall be disregarded. An employee paid for a miscellaneous payroll period shall be considered to have a daily payroll period for purposes of this subparagraph. In a case in which an employee is paid for a daily or miscellaneous payroll period and the employer elects under Circular E to compute the tax to be withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly period, the employer shall determine the equivalent number of payroll periods for purposes of the computation of the tax to be withheld for the calendar week on the basis of a weekly payroll period (notwithstanding the fact that a determination of the equivalent number of payroll periods for purposes of the computation of the tax to be withheld upon wages paid for daily or miscellaneous payroll periods within such calendar week has been made on the basis of a daily or miscellaneous payroll period).

(3) *Term of continuous employment.* For purposes of this paragraph, a term of employment is continuous if it is either a single term of employment or two or more consecutive terms of employment with the same employer. A term of continuous employment begins on the first day on which any services are performed by the employee for the

employer for which compensation is paid or payable. Such term ends on the earlier of (i) the last day during the current term of continuous employment on which any services are performed by the employee for the employer, or (ii) if the employee performs no services for the employer for a period of more than 30 calendar days, the last day preceding such period on which any services are performed by the employee for the employer. For example, a professional athlete who signs a contract on December 31, 1973, to perform services from July 1 through December 31 for the calendar years 1974, 1975, and 1976 has a new term of employment beginning each July 1 and accordingly may qualify for use of the part-year withholding method in each of such years. Likewise, a term of continuous employment is not broken by a temporary layoff of no more than 30 days. On the other hand, when an employment relationship is actually terminated the term of continuous employment is ended even though a new employment relationship is established with the same employer within 30 days. A ''term of continuous employment'' includes all days on which an employee performs any services for an employer and includes days on which services are not performed because of illness or vacation, or because such days are holidays or are regular days off (such as Saturdays and Sundays, or days off in lieu of Saturdays and Sundays), or other days for which the employee is not scheduled to work. For example, an employee who is employed 2 days a week for the same employer from March 1 through December 31 has a term of continuous employment of 306 days.

(4) *Part-year employment.* For purposes of this paragraph, ''part-year employment'' means one or more terms of continuous employment with all employers which term or terms will not aggregate more than 245 days within a calendar year. For example, A graduates from college in May and was not employed from January through May. A accepts a permanent position with X Co., beginning June 1. Since the total duration of A's term of continuous employment will, during the current calendar year, not exceed 245 days it does qualify as part-year employment for purposes of this section.

If, however, A had also worked for Y Co. from December 15 of the previous year through February 5 of the current calendar year, the total duration of A's terms of continuous employment will, during the current calendar year, exceed 245 days (36 days (January 1 through February 5) plus 214 days (June 1 through December 31) equals 250 days). This year's employment does not therefore qualify as part-year employment for purposes of this section.

(5) *Employee's request.* (i) An employee's request that his employer withhold according to the part-year employment method shall be in writing and in such form as the employer may prescribe. Such request shall be made under the penalties of perjury and shall contain the following information—

(a) The last day of employment (if any) by any employer prior to the current term of continuous employment during the calendar year in which such term commenced.

(*b*) A statement that the employee reasonably anticipates that he will be employed for an aggregate of no more than 245 days in all terms of continuous employment during the current calendar year, and

(c) The employee uses a calendar-year accounting period.

An employee's request furnished to his employer pursuant to this section shall be effective, and may be acted upon by his employer, with respect to wages paid after the furnishing of such request, and shall cease to be effective with respect to any wages paid on or after the beginning of the payroll period during which the current calendar year will end.

(ii) If, on any day during the calendar year, any of the anticipations stated by the employee in his statement provided pursuant to subdivision (i)*(b)* of this subparagraph becomes unreasonable, the employee shall revoke the request described in this subparagraph before the end of the payroll period during which it becomes unreasonable. The revocation shall be effective as of the beginning of the payroll period during which it is made.

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and

(m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))

[T.D. 7053, 35 FR 11627, July 21, 1970, as amended by T.D. 7251, 38 FR 867, Jan 5, 1973; T.D. 7915, 48 FR 44074, Sept. 27, 1983]

§ 31.3402(i)–1 Additional withholding.

(a) In addition to the tax required to be deducted and withheld in accordance with the provisions of section 3402, the employer and employee may agree that an additional amount shall be withheld from the employee's wages. The agreement shall be in writing and shall be in such form as the employer may prescribe. The agreement shall be effective for such period as the employer and employee mutually agree upon. However, unless the agreement provides for an earlier termination, either the employer or the employee, by furnishing a written notice to the other, may terminate the agreement effective with respect to the first payment of wages made on or after the first ''status determination date'' (see paragraph (d) of §31.3402(f)(3)–1) which occurs at least 30 days after the date on which such notice if furnished.

(b) The amount deducted and withheld pursuant to an agreement between the employer and employee shall be considered as tax required to be deducted and withheld under section 3402. All provisions of law and regulations applicable with respect to the tax required to be deducted and withheld under section 3402 shall be applicable with respect to any amount deducted and withheld pursuant to the agreement.

(c) This section is applicable only to agreements made before October 1, 1981. Any such agreement shall remain in effect in accordance with paragraph (a). See §31.3402 (i)–2 for rules relating to increases in withholding after September 30, 1981.

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and (m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))

[T.D. 6516, 25 FR 13108, Dec. 20, 1960, as amended by T.D. 7065, 35 FR 16540, Oct. 23, 1970; T.D. 7915, 48 FR 44074, Sept. 27, 1983]

§ 31.3402(i)–2 Increases or decreases in withholding.

(a) *Increases in withholding*—(1) *In general.* In addition to the tax required to be deducted and withheld in accordance with the provisions of section 3402, the employee may request, after September 30, 1981, that the employer deduct and withhold an additional amount from the employee's wages. The employer must comply with the employee's request, except that the employer shall comply with the employee's request only to the extent that the amount that the employee requests to be deducted and withheld under this section does not exceed the amount that remains after the employer has deducted and withheld all amounts otherwise required to be deducted and withheld by Federal law (other than by section 3402(i) and this section), State law, and local law (other than by State or local law that provides for voluntary withholding). The employer must comply with the employee's request in accordance with the time limitations of §31.3402(f)(3)–1 (relating to when withholding exemption certificate takes effect). The employee must make his request on Form W–4 as provided in §31.3402(f)(5)–1 (relating to form and contents of withholding exemption certificates), and this Form W–4 shall take effect and remain effective in accordance with section 3402(f) and the regulations thereunder.

(2) *Amount deducted considered to be tax.* The amount deducted and withheld pursuant to paragraph (a)(1) of this section shall be considered to be tax required to be deducted and withheld under section 3402. All provisions of law and regulations applicable with respect to the tax required to be deducted and withheld under section 3402 shall be applicable with respect to any amount deducted and withheld under paragraph (a)(1) of this section.

(b) *Decreases in withholding.* [Reserved]

(Secs. 3402(i) and (m) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i) and (m), 95 Stat. 172, 184; 26 U.S.C. 7805, 68A Stat. 917))

[T.D. 7915, 48 FR 44074, Sept. 27, 1983]