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(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]