

Internal Revenue Service, Treasury

§ 31.3402(f)(4)-1

“employer” includes any individual authorized by the employer to receive withholding exemption certificates, to make withholding computations, or to make payroll distributions.

(68A Stat. 731 (26 U.S.C. 6001); 68A Stat. 732 (26 U.S.C. 6011); 68A Stat. 917 (26 U.S.C. 7805))

[T.D. 6516, 25 FR 13105, Dec. 20, 1960, as amended by T.D. 6654, 28 FR 5252, May 28, 1963; T.D. 7048, 35 FR 10291, June 24, 1970; T.D. 7065, 35 FR 16539, Oct. 23, 1970; T.D. 7577, 43 FR 59359, Dec. 20, 1978; T.D. 7598, 44 FR 14552, Mar. 13, 1979; T.D. 7682, 45 FR 15526, Mar. 11, 1980; T.D. 7772, 46 FR 17548, Mar. 19, 1981; T.D. 7803, 47 FR 3547, Jan. 26, 1982; T.D. 7915, 48 FR 44073, Sept. 27, 1983; T.D. 8164, 52 FR 45633, Dec. 1, 1987]

§ 31.3402(f)(3)-1 When withholding exemption certificate takes effect.

(a) A withholding exemption certificate furnished the employer in any case in which no previous withholding exemption certificate is in effect with such employer, shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(b) A withholding exemption certificate furnished the employer in any case in which a previous withholding exemption certificate is in effect with such employer shall, except as hereinafter provided, take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days after the date on which such certificate is so furnished. However, at the election of the employer, except as hereinafter provided, such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished and before such status determination date.

(c) A withholding exemption certificate furnished the employer pursuant to section 3402(f)(2)(C) (see paragraph (c) of § 31.3402(f)(2)-1 or paragraph (b)(2)(ii) of § 31.3402(1)-1) which effects a change for the next calendar year, shall not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished. A withholding exemption certificate furnished the employer by an employee who determines his in-

come tax liability on a basis other than a calendar-year basis, as required by paragraph (b)(4) of § 31.3402(f)(2)-1, which effects a change for the employee's next taxable year, shall not take effect, and may not be made effective, with respect to the taxable year of the employee in which the certificate is furnished.

(d) For purposes of this section, the term “status determination date” means January 1, May 1, July 1, and October 1 of each year.

(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 13106, Dec. 20, 1960, as amended by T.D. 7048, 35 FR 10291, June 24, 1970; T.D. 7065, 35 FR 16539, Oct. 23, 1970; T.D. 7115, 36 FR 9234, May 21, 1971; T.D. 7915, 48 FR 44073, Sept. 27, 1983]

§ 31.3402(f)(4)-1 Period during which withholding exemption certificate remains in effect.

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section, a withholding exemption certificate which takes effect under section 3402(f) of the Internal Revenue Code of 1954, or which on December 31, 1954, was in effect under section 1622(h) of the Internal Revenue Code of 1939, shall continue in effect with respect to the employee until another withholding exemption certificate takes effect under section 3402(f). Paragraphs (b) and (c) of this section are applicable only for withholding exemption certificates furnished by the employee to the employer before January 1, 1982. See § 31.3402(f)(4)-2 for the rules applicable to withholding exemption certificates furnished by the employee to the employer after December 31, 1981.

(b) *Withholding allowances under section 3402(m) for itemized deductions.* In no case shall the portion of a withholding exemption certificate relating to withholding allowances under section 3402(m) for itemized deductions be effective with respect to any payment of wages made to an employee—

(1) In the case of an employee whose liability for tax under subtitle A of the Code is determined on a calendar-year basis, after April 30 of the calendar

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year immediately following the calendar year which was his estimation year for purposes of determining the withholding allowance or allowances claimed on such exemption certificate, or

(2) In the case of an employee to whom paragraph (c)(1) of this section does not apply, after the last day of the fourth month immediately following his taxable year which was his estimation year for purposes of determining the withholding allowance or allowances claimed on such exemption certificate.

(c) *Statements under section 3402(n) eliminating requirement of withholding.* The statements described in § 31.3402(n)-1 made by an employee with respect to his preceding taxable year and current taxable year shall be deemed to have been made also with respect to his current taxable year and his taxable year immediately thereafter, respectively, until either a new withholding exemption certificate furnished by the employee takes effect or the existing certificate which contains such statements expires. In no case shall a withholding exemption certificate which contains such statements be effective with respect to any payment of wages made to an employee—

(1) In the case of an employee whose liability for tax under subtitle A is determined on a calendar-year basis, after April 30 of the calendar year immediately following the calendar year which was his original current taxable year for purposes of such statements, or

(2) In the case of an employee to whom paragraph (c)(1) of this section does not apply, after the last day of the fourth month immediately following his original current taxable year for purposes of such statements.

(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. 7048, 35 FR 10291, June 24, 1970, as amended by T.D. 7065, 35 FR 16539, Oct. 23, 1970; T.D. 7915, 48 FR 44073, Sept. 27, 1983]

§ 31.3402(f)(4)-2 Effective period of withholding exemption certificate.

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section, a

withholding exemption certificate that takes effect under section 3402(f) of the Internal Revenue Code of 1954, or that on December 31, 1954, was in effect under section 1622(h) of the Internal Revenue Code of 1939, shall continue in effect with respect to the employee until another withholding exemption certificate takes effect under section 3402(f). Paragraphs (b) and (c) of this section are applicable only for withholding exemption certificates furnished by the employee to the employer after December 31, 1981. See § 31.3402(f)(4)-1 for the rules applicable to withholding exemption certificates furnished by the employee to the employer before January 1, 1982.

(b) *Withholding allowances under section 3402(m).* See paragraphs (b) and (c) of § 31.3402(f)(2)-1 (relating to withholding exemption certificates) for information as to when an employee claiming withholding allowances under section 3402(m) and the regulations thereunder must file a new withholding exemption certificate with his employer.

(c) *Statements under section 3402(n) eliminating requirement of withholding.* The statements described in § 31.3402(n)-1 made by an employee with respect to his preceding taxable year and current taxable year shall be effective until either a new withholding exemption certificate furnished by the employee takes effect or the existing certificate that contains such statements expires. In no case shall a withholding exemption certificate that contains such statements be effective with respect to any payment of wages made to an employee:

(1) In the case of an employee whose liability for tax under subtitle A is determined on a calendar year basis, after February 15 of the calendar year following the estimation year, or

(2) In the case of an employee to whom paragraph (c)(1) of this section does not apply, after the 15th day of the 2nd calendar month following the last day of the estimation year.

(d) *Estimation year.* The estimation year is the taxable year including the day on which the employee files the withholding exemption certificate with his employer, except that if the employee files the withholding exemption