

(iii) Deduct and withhold from any payment of wages (exclusive of tips) which are under the control of the employer, or from funds referred to in section 3402(k) (see §§ 31.3402(k) and 31.3402(k)-1), such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount required to be withheld in respect of tips reported by the employee to the employer during the calendar quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional tax required to be withheld may be deducted upon any payment of wages (exclusive of tips) which are under the control of the employer during the quarter and within the first 30 days following the quarter or from funds turned over by the employee to the employer for such purpose within such period. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of tax, see § 31.6413(a)-1.

(2) *Estimating tips employee will report*—(i) *Initial estimate.* The initial estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his rea-

sons for believing that the estimate is reasonable.

[T.D. 7053, 35 FR 11626, July 21, 1970]

§ 31.3402(h)(2)-1 Withholding on basis of annualized wages.

An employer may determine the amount of tax to be deducted and withheld upon a payment of wages to an employee by taking the following steps:

Step 1. Multiply the amount of the employee's wages for the payroll period by the number of such periods in the calendar year.

Step 2. Determine the amount of tax which would be required to be deducted and withheld upon the amount determined in Step 1 if that amount constituted the actual wages for the calendar year and the payroll period of the employee were an annual payroll period.

Step 3. Divide the amount of tax determined in Step 2 by the number of periods by which the employee's wages were multiplied in Step 1.

Example. On July 1, 1970, A, a single person who is on a weekly payroll period and claims one exemption, receives wages of \$100 from X Co., his employer. X Co. multiplies the weekly wage of \$100 by 52 weeks to determine an annual wage of \$5,200. It then subtracts \$650 for A's withholding exemption and arrives at a balance of \$4,550. The applicable table in section 3402(a) for annual payroll periods indicates that the amount of tax to be withheld thereon is \$376 plus \$314.50 (17 percent of excess over \$2,700), or a total of \$690.50. The annual tax of \$690.50, when divided by 52 to arrive at the portion thereof attributable to the weekly payroll period, equals \$13.28. X Co. may, if it chooses, withhold \$13.28 rather than the amount specified in section 3402 (a) or (c) for a weekly payroll period.

[T.D. 7053, 35 FR 11627, July 21, 1970]

§ 31.3402(h)(3)-1 Withholding on basis of cumulative wages.

(a) *In general.* In the case of an employee who has in effect a request that the amount of tax to be withheld from his wages be computed on the basis of his cumulative wages, and whose wages since the beginning of the current calendar year have been paid with respect to the same category of payroll period (e.g., weekly or semimonthly), the employer may determine the amount of tax to be deducted and withheld upon a payment of wages made to the employee after December 31, 1969, by taking the following steps:

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Step 1. Add the amount of the wages to be paid the employee for the payroll period to the total amount of wages paid by the employer to the employee during the calendar year.

Step 2. Divide the aggregate amount of wages computed in Step 1 by the number of payroll periods to which that amount relates.

Step 3. Compute the total amount of tax that would have been required to be deducted and withheld under section 3402(a) if the average amount of wages (as computed in Step 2) had been paid to the employee for the number of payroll periods to which the aggregate amount of wages (computed in Step 1) relates.

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 during the calendar year.

Example. On July 1, 1970, Y Co. employs B, a single person claiming one exemption. Y Co. pays B the following amounts of wages on the basis of a biweekly payroll period on the following pay days:

| | |
|--------------------|---------|
| July 20 | \$1,000 |
| August 3 | 300 |
| August 17 | 300 |
| August 31 | 300 |
| September 14 | 300 |
| September 28 | 300 |

On October 5, B requests that Y Co. withhold on the basis of his cumulative wages with respect to his wages to be paid on October 12 and thereafter. Y Co. adds the \$300 in wages to be paid to B on October 12 to the payments of wages already made to B during the calendar year, and determines that the aggregate amount of wages is \$2,800. The average amount of wages for the 7 biweekly payroll periods is \$400. The total amount of tax required to be deducted and withheld for payments of \$400 for each of 7 biweekly payroll periods is \$485.87 under section 3402(a). Since the total amount of tax which has been deducted and withheld by Y Co. through September 28 is \$484.86, Y Co. may, if it chooses, deduct and withhold \$1.01 (the amount by which \$485.87 exceeds the total amount already withheld by Y Co.) from the payment of wages to B on October 12 rather than the amount specified in section 3402 (a) or (c).

(b) *Employee's request and revocation of request.* An employee's request that his employer withhold on the basis of his cumulative wages and a notice of revocation of such request shall be in writing and in such form as the employer may prescribe. An employee's request furnished to his employer pursuant to this section shall be effective, and may be acted upon by his em-

ployer, 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: