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]

§ 31.3402(j)–1 Remuneration other than in cash for service performed by retail commission salesman.

(a) *In general.* (1) An employer, in computing the amount to be deducted and withheld as tax in accordance with section 3402, may, at his election, disregard any wages paid, after August 9, 1955, in a medium other than cash for services performed for him by an employee if (i) the noncash remuneration is paid for services performed by the employee as a retail commission salesman and (ii) the employer ordinarily pays the employee remuneration solely by way of cash commissions for services performed by him as a retail commission salesman.

(2) Section 3402(j) and this section are not applicable with respect to wages paid to the employee that are subject to withholding under § 31.3402(g)–1(a)(2). Section 3402(j) and this section are not applicable with respect to noncash wages paid to a retail commission salesman for services performed by him in a capacity other than as such a salesman. Such sections are not applicable with respect to noncash wages paid by an employer to an employee for services performed as a retail commission salesman if the employer ordinarily pays the employee remuneration other than by way of cash commissions for such services. Thus, noncash remuneration may not be disregarded in computing the amount to be deducted and withheld in a case where the employee, for services performed as a retail commission salesman, is paid both a salary and cash commissions on sales, or is ordinarily paid in something other than cash (stocks, bonds, or other forms of property) notwithstanding that the amount of remuneration paid to the employee is measured by sales.