

Fringe Benefits Compliance Self-Assessment For Public Employers

Introduction

Public employers have unique legal requirements for compliance with federal tax and Social Security laws. These employers need to be aware of the rules that apply to them and their workers (both employees and independent contractors); especially those related to federal income, Social Security and Medicare taxes and public retirement system obligations.

The Form 14581 series consists of seven topical employment tax Compliance Self-Assessment tools, listed below, for voluntary use by government entities to conduct self-assessments of their compliance with these requirements. The forms have fillable check box and text fields so they can be completed electronically or printed and completed manually.

For use by Federal, State and Local Government Entities

- Form 14581-A Fringe Benefits Compliance Self-Assessment
- Form 14581-B International Issues Compliance Self-Assessment
- Form 14581-D Other Tax Issues Compliance Self-Assessment
- Form 14581-G Worker Status Compliance Self-Assessment

For use by State and Local Government Entities Only

- Form 14581-C Medicare Coverage Compliance Self-Assessment
- Form 14581-E Retirement Plan Coverage Compliance Self-Assessment
- Form 14581-F Social Security Coverage Compliance Self-Assessment

The self-assessment tools are designed to help public employers identify areas that indicate potential compliance issues. They are intended to be completed by those responsible for withholding and paying employment taxes and filing required information returns. Each topic contains brief information on the law with links to IRS publications and other authoritative resources that provide more information.

Note: The self-assessment tools are intended as general guides to the most common tax issues that public employers may encounter and direct those entities to additional information as necessary. The tools are provided for general information only. They don't constitute legal advice or determinations by the IRS regarding particular tax situations and they don't cover every question that may be encountered. The sources cited should be reviewed for additional information.

Common Errors

The following common errors were identified during IRS audits of public employers:

- Totals shown on Forms 941 or Form 944 do not reconcile with totals on Forms W-2 and W-3, or between these forms and the accounting records.
- Forms W-9 and W-4 are not being used or are not being updated when necessary.
- Failure to backup withhold on payments to vendors when required.
- Failure to correctly complete or file Forms 1099.
- Failure to apply accountable plan rules to reimbursements and allowances.
- Incorrect or missing employment tax deposits.
- Failure to follow electronic filing requirements.
- Treatment of certain groups of workers as independent contractors instead of as employees.
- Failure to pay and withhold Medicare-only tax on rehired annuitants.
- Failure to include taxable noncash benefits in employee wages.
- Failure to apply correct withholding rules to election workers and public officials.

For Assistance While Completing the Self-Assessment Tools:

The following federal tax information applicable to the topics addressed in this Compliance Self-Assessment Tool is available on the IRS website:

- Tools for Federal, State and Local Governments
- Publication 15, Employer's Tax Guide
- Publication 15-A, Employer's Supplemental Tax Guide
- Publication 15-B, Employer's Tax Guide to Fringe Benefits
- Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities
- Publication 963, Federal-State Reference Guide
- Publication 1281, Backup Withholding for Missing and Incorrect Name/TIN(s)
- Publication 1779, Independent Contractor or Employee
- Publication 5137, Fringe Benefit Guide
- Publication 5138, Quick Reference Guide for Public Employers
- Government Retirement Plans Toolkit
- Governmental Plans under Internal Revenue Code Section 401(a)

Fringe Benefits Compliance Self-Assessment For Public Employers

Fringe Benefits – Publication 15-B and Publication 5137

- 1. Does the entity follow “accountable plan” rules for reimbursement of business expenses incurred by employees** Yes No Follow Up

Note: Generally, reimbursements or advances for expenses paid by the employer on behalf of the employee are taxable unless they are working condition fringe benefits and are ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee and the reimbursements or advances are made under accountable plan rules. For payments to be considered to be made under accountable plan rules, the employee must:

- a) Incur the expenses in the performance of work,
- b) Substantiate the expenses within a reasonable period of time, and
- c) Return any amounts in excess of expenses within a reasonable period of time.

If accountable plan rules are met, no tax reporting is necessary. If the rules are not met, the reimbursements or advances are included in wages on Form W-2 and are subject to withholding and payment of employment taxes. Employees may deduct expenses as miscellaneous itemized deductions on their Form 1040.

Comments

- 2. Does the entity include the taxable amount of the following fringe benefits as wages when applicable**

- a. Personal use of a government-owned vehicle** Yes No Follow Up

Note: Two types of written policy statements relating to a vehicle provided by the employer qualify as sufficient evidence corroborating the employer's own statement, and therefore will satisfy the substantiation requirements if initiated and kept by an employer to implement a policy of either:

- a) No personal use – see the requirements of Treas. Reg. Section 1.274-6T(a)(2), or
- b) No personal use except for commuting – see the requirements of Treas. Reg. Section 1.274-6T(a)(3).

Note: Unless it is excludable as a qualified non-personal use vehicle, the personal use of a government-owned vehicle is a taxable fringe benefit. Personal use includes the value of commuting to and from work in a government-owned vehicle, even if the vehicle is taken home for the convenience of the employer. The fair market value of the fringe benefit must be included in wages and is subject to income and employment taxes. However, employee use of a qualified non-personal use vehicle qualifies as a working condition fringe. You can exclude the value of that use from the employee's income. A qualified non-personal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design.

The value of the use of the vehicle is determined using one of the following methods:

- a) General valuation rule: the fair market value of a fringe benefit is defined as the price a willing buyer would pay to a willing seller in an arm's-length transaction.
- b) Alternate valuation rules: each of the following may be used under certain circumstances:
 - i. Lease value rule: Benefit determined based on annual lease value of the vehicle,
 - ii. Cents-per-mile rule: Personal use included in wages at the standard mileage rate for the year, or
 - iii. Commuting rule: An amount of \$1.50 per one-way commute is a taxable fringe benefit.

Note: A discussion of the valuation rules is included in Publication 15-B.

Comments

- b. Other listed property or reimbursement of travel expenses to any workers** Yes No Follow Up

Note: The employer is not required to have a separate written policy to meet the substantiation requirements for these items. Adequate accounting for these items by employees means the submission to the employer of an account book, diary, log, statement of expense, trip sheet or similar record maintained by the employer in which the required information for each element of expenditure or use is recorded at or near the time of the expenditure or use in a manner that conforms to the listed property requirements.

Comments

c. Group-term life insurance provided by the employer Yes No Follow Up

Note: The annual cost of \$50,000 of group-term life insurance may be excludable from Social Security, Medicare and income tax for each employee. The table for determining the cost of additional insurance is included in Publication 15-B.

The cost of group-term life insurance in excess of \$50,000 is subject to Social Security and Medicare, but not to income tax withholding.

Comments

d. Meals provided by the employer Yes No Follow Up

Note: Meals may be excludable from income in the following cases:

- a) "De minimis" meals, for example, occasional group meals, or
- b) Meals for the convenience of the employer, provided on the business premises.

Comments

e. Lodging provided for workers Yes No Follow Up

Note: Lodging may be excludable if for employer's convenience as a condition of employment, if on the employer's business premises. Lodging costs may also be excludable if paid for or reimbursed as working condition fringe.

See Publication 15-B for information on lodging as a fringe benefit.

Comments

f. Educational assistance provided to workers Yes No Follow Up

Note: Educational assistance may be excludable if the plan is in writing and meets certain other tests:

- a) Under educational assistance program (up to \$5,250 per year), or
- b) As a working condition fringe benefit.

See Publication 15-B and Publication 970, Tax Benefits for Education, for more information.

Comments

g. Achievement awards or length of service awards given to workers Yes No Follow Up

Note: For more information, see Publication 535, Business Expenses.

Comments

h. Membership fees paid for any workers Yes No Follow Up

Excludable if:

- a) For professional and business-related organizations and reasonable business purpose; or
- b) Use of athletic or recreation facilities, on employer premises by current or former employees or their family members.

Employer's payment of fees for employees' use of third-party owned facilities is generally taxable.

Comments

i. Moving expenses paid for any workers

Yes No Follow Up

Note: Exempt (up to limits) if expenses would be deductible if the employee had paid them.

These rules are further illustrated in Publication 521, Moving Expenses.

Comments

j. Gift Certificates given to any workers

Yes No Follow Up

Note: Gift certificates that are cash equivalent are not excludable from income as de minimis fringe benefits.

Comments

Notes/Follow-up