

# International Issues 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)

**International Issues Compliance Self-Assessment  
For Public Employers**

**International Issues** – Publication 515

**1. Did the entity make payments to a foreign person of any item of income that is subject to withholding**  Yes  No  Follow Up

If not, indicate "NO" and skip the International Issues section.

**Note:** Employees or independent contractors who are not U.S. citizens may be required to furnish their employer with a Form I-9, Employment Eligibility Verification, Form W-4, Employee's Withholding Allowance Certificate or a W-8 series form. P.O. Boxes from a foreign country are acceptable.

**The Form W-8 series includes:**

- W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding;
- W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States;
- W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding; and
- W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding.

Comments

**2. Did the entity employ resident aliens**  Yes  No  Follow Up

**If yes, were withholding income, Social Security and Medicare taxes followed in the same way as for U.S. citizens**  Yes  No  Follow Up

If no, skip the rest of the International Issues Compliance Self-Assessment.

**Note:** For information on determining who is a nonresident or resident alien, see Publication 519, U.S. Tax Guide for Aliens.

Comments

**a. Did any of the nonresident aliens (NRAs) holding an F-1, J-1, M-1 or Q-1 Visa provide documentation, including copies of the visa and Form I-9 with supporting documents to support exemption from Social Security and Medicare taxes**  Yes  No  Follow Up

**Note:** If this documentation was not provided, Social Security and Medicare taxes should be withheld from the wages paid to these NRAs. However, a NRA student may be eligible for the student FICA exception under Internal Revenue Code (IRC) Section 3121(b)(10).

Comments

**b. Did any NRAs have a visa status other than F-1, J-1, M-1 or Q-1**  Yes  No  Follow Up

**If yes, were Social Security and Medicare taxes withheld as required**  Yes  No  Follow Up

**Note:** NRAs holding other visas, such as an H-1 or any secondary visa are subject to Social Security and Medicare withholding.

Comments

**c. Is federal income tax withheld as required** Yes  No  Follow Up

**Note:** NRAs should complete a Form W-4, using Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens and Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, to claim tax treaty benefits. The employer should include procedures for completing Form W-4 and use of Form 8233 to claim a treaty exemption. See Publication 15 for the rules for completing Form W-4 and claiming a tax treaty exemption on Form 8233.

Comments

**d. Do any NRAs claim a treaty exemption using Form 8233** Yes  No  Follow Up**If yes, were federal income taxes withheld using the current treaty provisions** Yes  No  Follow Up

See Publication 901, U.S. Tax Treaties, for treaty information.

Comments

**e. For NRAs who did not claim a treaty exemption, were federal income taxes withheld using the presumption rules described in Publication 515** Yes  No  Follow Up

**Note:** If the NRA did not claim a treaty exemption, federal withholding taxes must be computed based on the completed Form W-4 for the NRA and by following the steps outlined in Chapter 9 of Publication 15.

Comments

**3. Does the entity have vendors or outside contractors that are NRAs** Yes  No  Follow Up

**Note:** Generally, withholding is required at 30% (or lower treaty rate) from the gross amount paid to a NRA. Use Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, to report payments to NRAs.

Comments

**4. Are payments to NRAs subjected to NRA Withholding and reported on Form 1042-S** Yes  No  Follow Up**If withholding was required, was Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, filed** Yes  No  Follow Up

Comments

Notes/Follow-up

You have completed the **International Issues** Compliance Self-Assessment.