

## Social Security Coverage Compliance Self-Assessment For State and Local Government Entities

### 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)

## Social Security Coverage Compliance Self-Assessment For State and Local Government Entities

### Social Security – Publication 963

General Social Security information is available at the Social Security Administration's website and information specific to state and local government employers is available at [www.ssa.gov/slge/](http://www.ssa.gov/slge/).

The National Conference of State Social Security Administrators (NCSSSA) website includes contact information for the state Social Security Administrators, who are responsible for maintaining and administering the states' Section 218 Agreements and Modifications with the Social Security Administration.

- 1. Does the entity have Social Security coverage under a Section 218 Agreement and/or Modification** (a modification is an amendment to the state's Section 218 Agreement)  Yes  No  Follow Up

If no, SKIP to question 4.

**Note:** If an entity is uncertain whether it is covered by a Section 218 Agreement and/or a Modification and would like to obtain a copy of its Section 218 Agreement and any related modifications, contact the State Social Security Administrator at [www.ncssa.org/statessadminmenu.html](http://www.ncssa.org/statessadminmenu.html).

Comments

- 2. Have there been any Modifications to the Section 218 Agreement or to the original Modification that provided Section 218 coverage for the entity**  Yes  No  Follow Up

It may be necessary to contact the State Social Security Administrator to answer this question. If "yes," list all Modification numbers, dates and a description of changes to the Section 218 Agreement made by each Modification. If there have been no modifications, skip to Question 3.

List the modifications

**Note:** State Social Security Administrators prepare Section 218 Modifications to the states' agreements to include additional coverage groups, to correct errors in other Modifications, to identify additional political subdivisions joining a covered retirement system or to obtain Medicare coverage for public employees whose employment relationship with a public employer has been continuous since March 31, 1986.

To learn more, contact the State Social Security Administrator for the state.

Comments

**3. If the entity has a Section 218 Agreement and/or Modification, are services performed by any employees excluded from Social Security and/or Medicare coverage**

Yes  No  Follow Up

**Note:** Federal law requires the exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act (Section 218(c)(6)):

- Services performed by individuals hired to be relieved from unemployment.
- Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government.
- Services performed by an employee hired on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.
- Services performed by a nonresident alien temporarily residing in the U.S., holding an F-1, J-1, M-1 or Q-1 visa, when the services are performed to carry out the purpose for which the alien was admitted to the U.S.
- Covered transportation service as defined in SSA 210(k).

**Note:** Federal law allows for the optional exclusion of the following services from voluntary (Section 218) coverage under the Social Security Act:

- Services in positions compensated solely by fees received directly from the public are subject to SECA (Self-Employment Contributions Act) taxes.
- Services performed by a student enrolled and regularly attending classes at the school, college or university for which they are working.
- Services performed by election officials or election workers paid less than the calendar year threshold amount mandated by law.
- Services that would be excluded if performed for a private employer because they are not work defined as employment under Section 210(a) of the Social Security Act.

**Note:** The categories of employees excluded from a Section 218 Agreement may still be subject to Social Security and Medicare withholding under the mandatory Social Security provisions if they do not participate in a retirement plan that replaces Social Security.

List the categories of workers excluded from coverage under the Section 218 Agreement or Modification

See IRS Publication 963, Federal-State Reference Guide, for information on exclusions from Section 218 coverage.

Comments

**4. Is the entity subject to mandatory Social Security coverage** Yes  No  Follow Up

**Note:** After July 1, 1991, full-time, part-time, temporary and seasonal employees who are not participating in a qualifying retirement system made available through their employer must be covered by Social Security, pursuant to Internal Revenue Code (IRC) Section 3121(b)(7)(F). The IRC, however, exempts employees performing the following services from mandatory Social Security and Medicare taxes.

- Services performed by individuals hired to be relieved from unemployment.
- Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government.
- Services performed by an employee hired on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.
- Services performed by a nonresident alien temporarily residing in the U.S. holding an F-1, J-1, M-1 or Q-1 visa, when the services are performed to carry out the purpose for which the alien was admitted to the U.S.
- Services in positions compensated solely by fees received directly from the public are subject to SECA (Self-Employment Contributions Act) taxes, unless a Section 218 Agreement covers these services.
- Services performed by a student enrolled and regularly attending classes at the school, college or university for which they are working, unless a section 218 Agreement covers these services. Refer to [www.socialsecurity.gov/slge/student\\_coverage\\_chart.htm](http://www.socialsecurity.gov/slge/student_coverage_chart.htm) for the student exclusions for each state.
- Services performed by election officials or election workers paid less than the calendar year threshold amount mandated by law unless a Section 218 Agreement covers election workers.
- Services that would be excluded if performed for a private employer because they are not work defined as employment under Section 210(a) of the Social Security Act

See IRS Publication 963, Federal-State Reference Guide, for information on exclusions from mandatory Social Security coverage.

Comments

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Notes/Follow-up