



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF
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This is in reply to your letter dated December 31, 2000 to the Internal Revenue Service (IRS), in which you raised questions regarding the Social Security program. Specifically, you asked whether participation in the Social Security program is compulsory, whether exemptions may be issued to an employee under sections 3101 or 3102 of the Internal Revenue Code (Code), and whether a person may collect Social Security benefits, when eligible, if the person stops paying into the Social Security program.

The Social Security program provides continuing income to a family when a worker dies, becomes disabled, or retires. Social Security benefits are financed through taxes from employees, employers, and the self-employed. If you work for an employer, your employer withholds Social Security and Medicare taxes from your paycheck, sends those taxes to the IRS and reports your earnings to the Social Security Administration (SSA). On some pay stubs it is called FICA, which stands for "Federal Insurance Contributions Act," the law that authorized payroll deductions for Social Security.

FICA taxes consist of the Old-Age, Survivors, and Disability Insurance (Social Security) and the Hospital Insurance (Medicare) taxes. Sections 3101 and 3111 of the Code impose matching FICA taxes on employees and employers, respectively, equal to a percentage of wages paid with respect to employment. Section 3102 imposes on an employer the duty to collect the employee's share of FICA, by withholding the amount of the tax from the wages paid. The IRS administers the collection of these taxes. The SSA administers the Social Security program, including the payment of benefits.

In general, all payments of remuneration by an employer for services performed by an employee are subject to FICA taxes, unless the payments are specifically excepted from the term "wages" or the services are specifically excepted from the term "employment."

"Wages" are generally defined under section 3121(a) of the Code as all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash, with certain enumerated exclusions. "Employment" is

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generally defined under section 3121(b) of the Code as any service, of whatever nature, performed by an employee for the person employing him, with certain enumerated exclusions. See section 15 of Circular E, Employer's Tax Guide, for information on these exclusions. A copy of Circular E is enclosed.

Questions regarding the Social Security program, including whether a person may collect Social Security benefits, should be directed to SSA. You can check SSA's website at www.ssa.gov for answers to many questions concerning Social Security. The SSA has a toll-free number for information: 1-800-772-1213. Questions may also be addressed to SSA at:

Social Security Administration
Office of Public Inquiries
6401 Security Blvd.
Room 4-C-5 Annex
Baltimore, MD 21235-6401

Under the Freedom of Information Act, we will make this letter available to the public after we delete names, addresses, and other identifying information.

We hope this general information on Social Security taxes is helpful to you. If you have any further questions, feel free to contact Margaret A. Owens (Badge No. 50-05478) of my staff at (202) 622-6040.

Sincerely,

Michael Swim
Chief, Employment Tax Branch 1
Office of the Division Counsel/Associate
Chief Counsel
(Tax Exempt & Government Entities)

Enclosure (1)
Circular E