



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

April 30, 2002

Number: **INFO 2002-0096**

Release Date: 6/28/2002

UIL: 3121.02-00

CC:TEGE:EOEG:ET1:
GENIN-107561-02

[REDACTED]

Dear [REDACTED]

This letter is in response to your inquiry, in which you requested general information on which individuals, entities, or organizations are not required to pay social security taxes.

Social security benefits are financed through taxes from employees, employers, and the self-employed. Generally, if you work for an employer, your employer withholds social security and Medicare taxes from your paycheck, sends those taxes to the Internal Revenue Service (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. 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 social security taxes, unless the payments are specifically excepted from the term "wages" or the services are specifically excepted from the term "employment."

Section 3121 (a) of the Internal Revenue Code defines "wages" as all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash unless specifically excepted. Courts have stressed that "wages" is broadly defined to include not only remuneration for work actually done but also remuneration for the "entire employer-employee relationship for which compensation is paid to the employee by the employer." Social Security Board v. Nierotko, 327 U.S. 358, 366 (1946).

Section 3121(b) of the Code defines the term "employment" for purposes of FICA as services performed by an employee for the person employing him, with certain exceptions. Generally, the term "employment" means services performed by an employee within the United States, and those services performed outside the United States by a citizen or resident of the United States for an American employer.

GENIN-107561-02

Services performed by the following individuals are excepted from the term “employment” for FICA purposes:

- 1) Certain foreign agricultural workers performing service on a temporary basis,
- 2) Certain students in a local college club, fraternity or sorority performing domestic service,
- 3) Children under the age of 18 employed by a parent, and certain individuals under the age of 21 employed by a parent, child, or spouse for non-domestic services in an employer’s private home or for services not in the employer’s trade or business,
- 4) Workers connected with a non-American vessel or aircraft outside the United States if a worker is not a U.S. citizen or the employer is not an American employer,
- 5) Certain federal employees,
- 6) Certain inmates of a United States penal institution, certain student employees of federal hospitals, and certain temporary emergency workers,
- 7) Certain state and local government employees,
- 8) Certain ordained, commissioned or licensed ministers, or members of religious orders, as well as certain other services by individuals in the employ of a church, or church-controlled organization, that opposes for religious reasons the payment of social security taxes,
- 9) Certain railroad employees and employee representatives,
- 10) Certain students employed by the school they attend,
- 11) Workers employed by a foreign government,
- 12) Certain workers for instrumentalities wholly owned by a foreign government,
- 13) Student nurses for a hospital or nurses’ training school,
- 14) Certain individuals under the age of 18 who deliver newspapers and shopping news and certain other newspaper and magazine sellers,
- 15) Certain non-federal workers employed by international organizations,

GENIN-107561-02

- 16) Certain sharecroppers,
- 17) Certain workers employed by an organization required to register under the Internal Security Act of 1950,
- 18) Residents of the Republic of the Philippines performing certain temporary services in Guam,
- 19) Certain nonresident aliens,
- 20) Certain crew members of some fishing boats, and
- 21) Certain workers under the age of 18 performing domestic services in the employer's private home.

See section 15 of Circular E, Employer's Tax Guide, for more information on these exceptions. A copy of Circular E is enclosed.

We do not have any information regarding the dollar impact of these exceptions.

This letter provides general information only. It describes well-established interpretations or principles of tax law without applying them to a specific set of facts. It is advisory only and has no binding effect with the IRS. This letter is intended only to provide you with general guidance for determining how to comply with applicable law.

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

I hope this information will be helpful. If we can be of further assistance in this matter, please call (202) 622-6040.

Sincerely,
Will E. McLeod
Acting Chief, Employment Tax Branch 1
Office of the Division Counsel/Associate
Chief Counsel
(Tax Exempt & Government Entities)

Enclosure (1)
Circular E