



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

OFFICE OF
CHIEF COUNSEL

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Dear :

This letter responds to your request for information dated October 21, 2005. You requested a letter ruling regarding whether the services you perform as a notary public are subject to self-employment tax. However, after reviewing your letter, your question is most appropriately addressed by simply providing you some general information about the applicable tax laws.

A "letter ruling" is a written determination issued to a taxpayer in response to a written inquiry about the tax effects of the taxpayer's acts or transactions, prior to the filing of a tax return. Rev. Proc. 2005-1, § 2.01, 2005-1 I.R.B. 6 (Jan. 3, 2005). A letter ruling will interpret and apply the tax law to the taxpayer's specific set of facts. The user fee is \$ 625 for a letter ruling request postmarked after March 1, 2005, provided that the request involves a personal tax issue from a person with an annual gross income of less than \$ 250,000. Rev. Proc. 2005-1, Appendix A.

Generally, fees received for services as a notary public are not subject to self-employment tax. Self-employment tax is imposed on net earnings from self-employment. For an individual to have net earnings from self-employment, they must carry on a trade or business either as an individual or a member of a partnership. Treas. Reg. § 1.1402(c)-1. The performance of functions of a public office, including work as a notary public, is not a trade or business. Treas. Reg. § 1.1402(c)-2. Thus, fees for services rendered as a notary public do not constitute net earnings from self-employment, and are not subject to self-employment taxes.

As you noted in your letter, Publication 533, *Self-Employment Tax*, states that fees received for services as a notary public are not subject to self-employment tax. However, the fees are ordinary income to the taxpayer, as stated in Publication 525, *Taxable and Nontaxable Income*. Therefore, these fees are generally reported as income on Schedule C or Schedule C-EZ (Form 1040).

Please note that non-notary public services performed may be subject to employment taxes if they are performed by an employee during the course of her employment. If

you wish to have a written determination of your employment status, you (or your employer) must file Form SS-8, "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding."

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2005-1, § 2.04, 2005-1 IRB 7. If you would like to request a letter ruling on your tax issue, you must meet the procedural requirements for a letter ruling request. See generally Rev. Proc. 2005-1, available at <http://www.irs.gov>. If you have any additional questions, please contact our office at .

Sincerely,

Janine Cook
Branch Chief, Employment Tax Branch 1
Office of the Division Counsel/Associate Chief
Counsel (Tax Exempt and Government Entities)