



OFFICE OF
CHIEF COUNSEL

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

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The Honorable George Voinovich
United States Senator
37 West Broad Street, Suite 300
Columbus, OH 43215

Attention:

Dear Senator Voinovich:

This letter responds to your inquiry dated August 5, 2008, on behalf of your constituent, . He asked for reimbursement of the Federal Insurance Contributions Act (FICA) taxes he pays on wages that he receives for the part time work he performs during his retirement because the amount of benefits he receives will not increase as a result of this additional service.

The law imposes FICA taxes on the wages of employees [sections 3101 and 3111 of the Internal Revenue Code (the Code)]. The employee portion of these taxes is determined by a percentage of the wages received for employment. The term "employment" means any service, of whatever nature, performed by an employee for the person employing him [section 3121(b) of the Code]. All wages from employment, unless specifically excepted, are subject to FICA taxes. The law does not except wages received during retirement from FICA taxes. Thus, absent qualifications for another exemption, wages paid to a retiree receiving Social Security benefits are subject to FICA.

If _____ has questions about how his retirement benefits are calculated, he should contact the Social Security Administration. I hope this information is helpful. If you would like to discuss this further, please contact _____ or _____ at ()

Sincerely,

Nancy J. Marks
Division Counsel/Associate Chief Counsel
(Tax Exempt & Government Entities)