



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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OFFICE OF THE CHIEF COUNSEL

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The Honorable Amy Klobuchar  
United States Senate  
1200 Washington Avenue South, Suite 250  
Minneapolis, MN 55415

Attention:

Dear Senator Klobuchar:

This letter is in response to your inquiry dated December 13, 2010, on behalf of your constituent, . asked about the employment tax treatment of compensation he received for services he performed while serving on an absentee ballot board.

As a general matter, apart from the procedure for issuing a formal ruling, as described in Revenue Procedure 2011-1, 2011-1 Internal Revenue Bulletin 1, we cannot provide binding legal advice applicable to particular taxpayers. However, we have reviewed the facts provided and can provide general information, which we hope will be helpful to you.

The law imposes Old-Age, Survivors, and Disability Insurance taxes on wages paid to employees (section 3101(a) and 3111(a) of the Internal Revenue Code (the Code)). The law also imposes hospital insurance taxes on wages paid to employees (sections 3101(b) and 3111(b) of the Code). These two taxes comprise Federal Insurance Contributions Act (FICA). Taxes under FICA apply to "wages", as defined in section 3121(a), that employers pay for "employment", as defined in section 3121(b) of the Code.

Services an election official or worker performed in the employ of a state or a political subdivision are excepted from the definition of employment for FICA purposes if the worker's total pay is less than \$1000 during the calendar year [sections 3121(b)(7)(F) and 3121(u)(2)(B)(ii)(V) of the Code]. We annually index and adjust this \$1000 threshold for inflation. For calendar years 2010 and 2011, the applicable amount is \$1500. When wages paid to an individual for services performed as an election worker meet or exceed the applicable dollar threshold, all amounts paid are subject to FICA tax, including the first \$1500. The FICA exemptions for election workers will not apply if a section 218 agreement covers the election worker's services. A section 218 agreement is a voluntary agreement between a state and the Social Security

Administration to provide coverage for employees of state and local governments within the state.

Revenue Ruling 2000-6, Internal Revenue Bulletin 512, states that “election workers are individuals who are generally employed to perform services for state and local governments at election booths in connection with national, state, or local elections.” We have not provided published guidance on whether the FICA exemption applies to services election workers or officials performed at locations other than “election booths”, such as services performed with absentee balloting. We have not issued any formal rulings on whether the location at which individuals collect and count absentee ballots constitutes a polling place similar to an election booth for exemption purposes.

I hope this information is helpful. If you have any questions, please contact me or of my staff at .

Sincerely,

Lynne Camillo  
Branch Chief, Employment Tax Branch 2  
(Exempt Organizations/ Employment Tax/  
Government Entities)  
(Tax Exempt and Government Entities)