



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

I am writing in response to your letter dated June 28, 2011. You asked why the definition of "State" and "United States" in Section 31.3121(e)-1 of the Treasury Regulations does not include Alaska and Hawaii after their admission as states. I am providing the following general information which I hope will be useful to you.

Section 31.3121(e)-1(a) of the Treasury Regulations states that when used in the regulations concerning Federal Insurance Contributions Act (FICA) taxes, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa. Section 31.3121(e)-1(b) states that for the regulations concerning FICA taxes, the term "United States," when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

The term "State" means any state that is a member of the United States of America. This includes Alaska and Hawaii. The term "United States" means the 50 states that comprise the United States of America. This also includes Alaska and Hawaii. The definition of "State" and "United States" found in Section 31.3121(e)-1 of the Treasury Regulations expands the definition of "State" and "United States" to include territories and possessions which are not part of the 50 states of the United States. The use of the term "includes" indicates an expansion of the term from the normal definition of "State" and "United States". This section of the regulation only expands the definition of these terms; it does not provide any exclusions. This regulation was originally published in Treasury Decision 6190, which was published on July 13, 1956. At that time, Alaska and Hawaii were territories of the United States (Alaska was lawfully

admitted as the 49th state on January 3, 1959 and Hawaii was lawfully admitted as the 50th state on August 21, 1959). At the time of the original issuance of the regulation, the regulation was drafted to expand the definition of "State" to include these territories as states for FICA purposes. This section of the regulations was amended in 1960 and 1964, after the admission of Alaska and Hawaii as states in the Union. The language "before their admission as States" was added to indicate that wages paid for employment performed in the states of Alaska and Hawaii were still subject to FICA taxes even though their status changed from territories to states in 1959. Because Alaska and Hawaii are part of the 50 states of the United States, the term "State" and "United States" includes Alaska and Hawaii; Alaska and Hawaii are not excluded from the definition of these terms.

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)