

Internal Revenue Service



Federal, State and Local Governments

July 2007

**PUBLIC EMPLOYER
TAX GUIDE**

PUBLIC EMPLOYERS OUTREACH GUIDE

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INTERNAL REVENUE SERVICE EMPLOYMENT TAX HIGHLIGHTS FOR PUBLIC EMPLOYERS

1. SOCIAL SECURITY AND MEDICARE COVERAGE

Public employers need to be aware of the rules that govern social security and Medicare coverage for their employees. The laws can be complicated, but if you follow the rules below you will be able to apply the tax laws correctly to your employees.

First, you must determine whether or not a Section 218 Agreement applies to services performed by the worker. A Section 218 Agreement covers positions, not individuals. If the position is covered by such an agreement, your worker is subject to social security up to the wage base (\$97,500 in 2007) and Medicare or Medicare-only taxes and you, as employer, must match these tax amounts. (There is no wage base limit for Medicare tax.) Since April 20, 1983, any public employer who had previously entered into a Section 218 Agreement to cover their employees is required to continue coverage regardless of whether or not another public retirement system is available to those employees.

These agreements have been in effect for many years and have a critical bearing on the social security and Medicare coverage of the worker. If you are not sure whether a worker's position is covered, please call your State Social Security Administrator.

If a position is not covered by a Section 218 Agreement, you then need to find out the date the worker in question was hired. This is the date the worker began his/her current employment. If a worker was terminated and re-hired, the date you use to figure the coverage would be the re-hire date. If the worker was hired after March 31, 1986, it is mandatory that both the worker and public employer pay Medicare tax.

After July 1, 1991, full-time, part-time, temporary and seasonal employees who are not participating in a qualifying retirement system made available through their employer MUST be covered by social security and Medicare. It is also possible for employees under a public retirement system to be covered for social security if a Section 218 Agreement covers them. If the worker was hired prior to April 1, 1986, Medicare coverage depends on whether the worker is currently covered by a public retirement system that meets the requirements discussed next.

2. PUBLIC RETIREMENT SYSTEM COVERAGE

A public retirement system is not required to be a qualified plan within the meaning of the Employees' Retirement Income Security Act of 1974 (ERISA). The employee may be a member of any type of retirement system, including a nonqualified system (for example, a section 457(b) plan, discussed below), as long as the plan provides a minimum level of benefits, as specified by law, under that system.

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A public retirement system may take one of two forms: the **defined benefit retirement system**, which is based on a guaranteed minimum benefit, and the **defined contribution retirement system**, which is based on a minimum contribution relative to salary.

For a **defined benefit retirement system** to meet the requirement to be a public retirement system, it must provide a benefit comparable to social security retirement benefits. The benefit must be measured by and based on various factors, including years of service rendered by the employee, compensation earned by the employee and the age of the employee at retirement. The Service issued Revenue Procedure 91-40 to clarify the minimum retirement benefit tests, which must be met in the plan's formula. This Revenue Procedure can be found in the Appendix of [Publication 963](#), Federal-State Reference Guide.

For a **defined contribution retirement system** to meet the requirement of a public retirement system, the worker must be covered in a plan in which at least 7.5% of his/her income is placed into a retirement plan. This contribution can be any combination of employer and employee contributions, but must total a minimum of 7.5% of his pay, and cannot include any interest in the calculation. The plan may include any plan described in section 401(a), an annuity plan or contract under section 403(b) or a plan described in section 457(b) or (f) of the Internal Revenue Code.

Any person working for a public employer after July 1, 1991, who is not covered in a public retirement system plan that meets the requirements discussed above or the Defined Benefit System safe harbor rules of Revenue Procedure 91-40, must be covered by social security and Medicare under the mandatory coverage provisions of Section 210 of the Social Security Act.

For more information on determining who is a qualified participant in a public retirement system, see section 31.3121(b)(7)-2 of the Income Tax Regulations.

3. SECTION 457(b) (NONQUALIFIED) PLAN

Section 457 of the Internal Revenue Code establishes a nonqualified plan for employees of tax-exempt organizations and governments. A section 457(b) plan is "nonqualified" in that it does not qualify for the same tax-deferral treatment as "qualified plans" under Sections 401, 403, and other provisions of the Internal Revenue Code. However, it can still be a public retirement system and provide for the deferral of compensation under certain circumstances.

An employee can defer compensation up to \$15,500 per section 457(b) plan for the year 2007. The municipality owns the funds until the employee retires and withdraws the money. The employer can match the employee's contribution but is not required to. The employer's contribution usually vests immediately.

The 457(b) plan can be used either as a primary retirement plan or as a deferred compensation plan in addition to the employee's retirement system or social security.

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When a 457(b) deferred compensation plan is used in addition to either social security or a state retirement system, an employer must be aware of the social security and Medicare (FICA) tax implications. The employees' contributions are subject to FICA tax in the same manner as the employees' regular wages. If the employees' wages are subject to social security and/or Medicare tax, so is the contribution.

Unlike qualified pension plans, the employer's contributions are subject to social security and/or Medicare tax in the same manner as the employee's wages. All contributions and deferrals are subject to social security and Medicare tax at the later of:

- a) When the services are rendered, or
- b) When the plan vests to the employee so that there is no substantial risk of forfeiture.

Please review Notice 2000-38, in [Internal Revenue Bulletin 2000-33](#), for more information on withholding and reporting requirements for Section 457(b) plans.

4. FEE-BASED PUBLIC OFFICIALS

In general, if an individual performs services as an official of a public entity (city, state, town, village, water district, library, etc.) and the remuneration received, is paid out of governmental funds, the official is an employee and the wages are subject to Federal employment taxes. Examples of public officials include, but are not limited to, the President, a governor, mayor, county commissioner, judge, justice of the peace, sheriff, constable, registrar of deeds, building and plumbing inspectors, etc. The only exception to this rule involves a public official who receives his/her remuneration in the form of fees **directly from the public** with whom he/she does business. However, if the fee service is covered by a Section 218 agreement, the services would be covered as employment, as discussed in [Publication 15](#), Employer's Tax Guide (Circular E).

If a public official receives his or her remuneration or salary directly from or through a government fund on the basis of a fixed percentage and no portion of the monies collected belongs to or can be retained by him/her as compensation, then the remuneration is not fees, but salary subject to all employment taxes.

If an individual performs services in more than one position, each position is treated separately for purposes of determining whether the compensation for the service meets the fee based or wage criteria.

For detailed information on this subject, please review the information in [Publication 963](#), Federal-State Reference Guide, and Revenue Ruling 74-608, 1974-2 C.B. 275.

5. BARTER EXCHANGES

Bartering between municipalities and individuals has a tax consequence. Examples of bartering include having a contractor demolish a building in exchange for land, or engaging an individual to perform work in exchange for relief from property taxes.

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The relevant forms and provisions of the law are as follows:

- a) Form 1099-MISC:** Regulation 1.6041-1 Return of Information as to payments of \$600 or more.

Paragraph (e) Payment made in medium other than cash

If any payment that is required to be reported on Form 1099 is made in property other than money, the fair market value of the property at the time of payment is the amount to be included on such form.

Paragraph (f) When payment deemed made

For purposes of a return of information, an amount is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

- b) Form W-2, Wage and Tax Statement:**

Regulations Section 31.3401(a)-1 Wages

(1) In General:

(a) The term "wages" means all remuneration for services performed by an employee for his employer unless specifically excepted.

(b) Generally, the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in goods or services, such as, for example, stocks, bonds or other forms of property. If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages.

The cited law makes clear that a Form 1099 or W-2 is required to be filed if the exchange is between the municipality and an individual and/or partnership. The issuance of a Form 1099 is not required for exchanges between an employer and incorporated entities.

6. GROUP-TERM LIFE INSURANCE

An employer may exclude from income the cost of up to \$50,000 of group-term life insurance from an employee's wages. If the employee receives more than \$50,000 insurance, only the IRS-determined cost of the excess is includable as wages. Use the tables in [Publication 15-B](#), Employer's Tax Guide to Fringe Benefits, to calculate the includible income.

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If the employee makes any payment toward the cost of the insurance, then the amount of coverage attributable to that payment is not considered in determining the amount of insurance provided by the employer.

Taxable employer-provided group-term life insurance is treated as wages, but is not subject to income tax withholding. It is subject to social security and Medicare tax withholding and must be included on Form W-2, in box 1, 3, 5 and 12 (code C).

The taxable portion is included on **Form 941**, Employer's Quarterly Federal Tax Return, as part of wages, tips and other compensation, and on the lines for social security and Medicare wages.

7. SPECIAL SITUATIONS FOR PUBLIC WORKERS

Elected and **appointed** officials are employees for Federal income tax withholding purposes, per Section 3401(c) of the Internal Revenue Code. For social security and Medicare purposes, all elected and most appointed officials are employees of the public entity they serve, per Section 3121(d)(2) and 3121(d)(4) of the Code. For more information, see Publication 963.

We have also included a brief analysis of a few of the issues you as the public employer may encounter during your normal work in properly classifying other types of workers:

a) Casual Laborer

Federal tax law does not recognize the term "casual laborer." If you hire a student to clean up the town dump or a day laborer to cut trees, the worker is an employee and you must withhold, report, and pay over applicable employment taxes. There are no grace periods. You must withhold with the first dollar earned by the worker.

b) Volunteer Firefighters

Volunteer firefighters are considered employees and their remuneration is generally subject to all withholding taxes. However, if the payment is a nominal reimbursement for out-of-pocket expenses actually incurred, AND the payment is accounted for according to the requirements of Reg. 1.62-2 regarding accountable plans, then the payment could be excludable from the rest of the firefighter's Form W-2. Please review the material in Publication 963 for more information on this issue.

c) Road Commissioners

The road commissioner is an elected or appointed town official, and therefore can be supervised, directed, and disciplined if necessary and a work plan and job description can be developed for the position by the appointing body.

The relationship between the town and the commissioner may also allow for a fair rental payment for the use of any large equipment owned by the commissioner. This rental fee for equipment used should be separate, agreed upon in advance, and reported to the individual

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on Form 1099-MISC, Box 7. Fair equipment rental rates should be determined and municipalities should be guided by what a private company would charge.

Scenarios such as these, in which the road commissioner may hire a crew to perform certain services, generally have to be determined on a case-by-case basis. It is possible that these workers could be employees of the town. All remuneration that the road commissioner personally receives is wages.

d) Animal Control Officer

If an animal control officer holds an elected or appointed position, then the remuneration paid to that person should be regarded as wages.

Note: Moderators, civil emergency directors, bus drivers, harbormasters, correction officers, fire chiefs, fire and ambulance workers, airport managers, summer aides, and librarians are all considered employees.

8. FRINGE BENEFITS

a) Reimbursements Paid to Employees

For expense reimbursements to employees to be exempt from taxes, the reimbursements must be made under an accountable plan. This means that the employees must:

- (1) Incur the expenses in the performance of work;
- (2) Adequately account for the expenses within a reasonable period of time; and
- (3) Return any amounts in excess of expenses within a reasonable period of time.

Reimbursements may be made in the form of allowances for travel, tools, shoes or clothing.

Note: Reimbursement for clothing that is suitable for everyday use while not on duty is always a taxable fringe benefit.

b) Municipally-Owned Vehicles

The personal use of a municipally-owned vehicle is a taxable fringe benefit. Personal use includes the value of commuting to and from work in a municipal vehicle, even if the vehicle is taken home for the convenience of the employer. The value of the fringe benefit must be included in wages and is subject to income and employment taxes. There are three methods that can be used to determine the value of the vehicle provided to the employee: commuting value rule, cents-per-mile rule and automobile lease rule (see below). Control employees who work for a government employer includes elected officials (such as a mayor) and employees who earn at least Federal Executive Level V salary (\$136,200 for 2007), can only use the cents-per-mile rule or the automobile lease rule.

All of your employee's use of a **qualified non-personal use vehicle** qualifies as a working condition fringe. You can exclude the value of that use from your employee's income. A qualified non-personal use vehicle is any vehicle the employee is not likely to use more than

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minimally for personal purposes because of its design. Qualified non-personal use vehicles include:

- Clearly marked police and fire vehicles.
- Unmarked vehicles used by law enforcement officers. The officer **MUST** be authorized to carry a firearm, execute search warrants and make arrests.
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- Delivery trucks with seating for the driver only, or driver plus a folding jump seat.
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- School buses.
- Tractors and other special purpose farm vehicles.

c) All Other Employer-Provided Vehicles

If you have an employer-provided vehicle that does not qualify as a non-personal use vehicle, and the employee uses the vehicle for personal use, which includes commuting, the personal use of the vehicle is a non-cash taxable fringe benefit.

It is the employer's responsibility to determine the actual value of this fringe benefit and to include the taxable portion in the employee's income.

Examples:

A town-owned pickup truck has the name of the town marked on the vehicle. Usually the employee is allowed to take the vehicle home because he/she is "on call." The vehicle is not a qualified non-personal use vehicle, thus the commuting is a non-cash taxable fringe benefit.

An employee takes a city vehicle home in order to avoid exposing it to harm. The vehicle has a city seal on the door and is not to be used for personal use. If the vehicle is not a qualified non-personal use vehicle as discussed earlier, the employee would have a taxable commuting benefit if he/she takes a city vehicle home.

Special Valuation Rules

Employees may use one of the following special valuation rules to determine the value of personal use of a vehicle:

1) Automobile Lease Rule

- a) Determine the Fair Market Value of the vehicle.
- b) Use annual lease values (ALV) in the table in IRS Publication 15-B, which are based on a 4-year lease term. These values will generally stay the

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same for each year. After four years the vehicle must be revalued and the ALV recomputed.

- c) You must add the fair market value of fuel provided; you may use 5.5 cents per mile.

2) Cents-Per-Mile Rule

The value of the personal use of a vehicle may be figured at 48.5 cents per mile for 2007 if the following conditions are met:

- a) Must have regular business use; if 50% of the total annual mileage is for your trade or business, it meets this test.
- b) Fair market value is less than threshold (check with IRS for amount).
- c) Meets the mileage rule requirement (driven at least 10,000 miles).

3) Commuting Value Rule

An amount of \$3.00 per day or \$1.50 per one-way commute (home to work or work to home) is a non-cash taxable fringe benefit to the employee, includible in gross income. You can use this rule only if you meet all of the following requirements:

- a) You own or lease the vehicle and provide it to an employee to use in your business,
- b) For bona fide noncompensatory business reasons, you require the employee to commute in the vehicle,
- c) You establish a written policy allowing no personal use other than commuting or de minimis personal use (such as stop for personal errand),
- d) Your employee does not use the vehicle for personal purposes other than commuting and de minimis personal use, and
- e) The employee is not a government control employee defined as follows:
 - i. Elected official, or
 - ii. Employee whose pay is at least Federal Government Executive Level V (\$136,200 for 2007).

Recordkeeping

To conform to the accountable plan rules, employees using a vehicle for business purposes (regardless of which special valuation rule is used) must keep track of business miles by keeping a log containing the following information:

- 1) Date
- 2) Mileage (beginning and ending)
- 3) Destination
- 4) Business purpose
- 5) Personal use mileage
- 6) Commuting

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This information should be kept on a daily basis.

d) Clothing Provided by the Employer

Work clothing provided by the employer is not taxable to the employee if:

- 1) The employee must wear them as a condition of employment, and
- 2) The clothes are not suitable for everyday wear.

It is not enough that the employee wear distinctive clothing. The employer must specifically require the clothing. Nor is it enough that the employee does not, in fact, wear the work clothes away from work. The clothing must not be suitable for taking the place of your regular clothing.

The cost and upkeep of work clothes for firefighters, health care workers, law enforcement officers or letter carriers is nontaxable to the employee.

Similarly, the costs of buying and maintaining safety shoes or boots, safety glasses, hard hats and work gloves are not taxable if the purchases are substantiated under the accountable plan rules.

e) Clothing Allowances for Police, Fire and Public Works

If the clothing does not qualify as a deductible expense (i.e. is a uniform), then these payments must be treated as a taxable fringe benefit and are subject to all employment taxes. Thus, a police officer or firefighter uniform would qualify for exclusion from income if paid under an accountable plan and meets all the requirements of an accountable plan (qualified expense, substantiation, and return of excess). A detective's suit jacket and related clothing, since they are suitable for everyday wear, do not qualify as a uniform and are taxable to the employee.

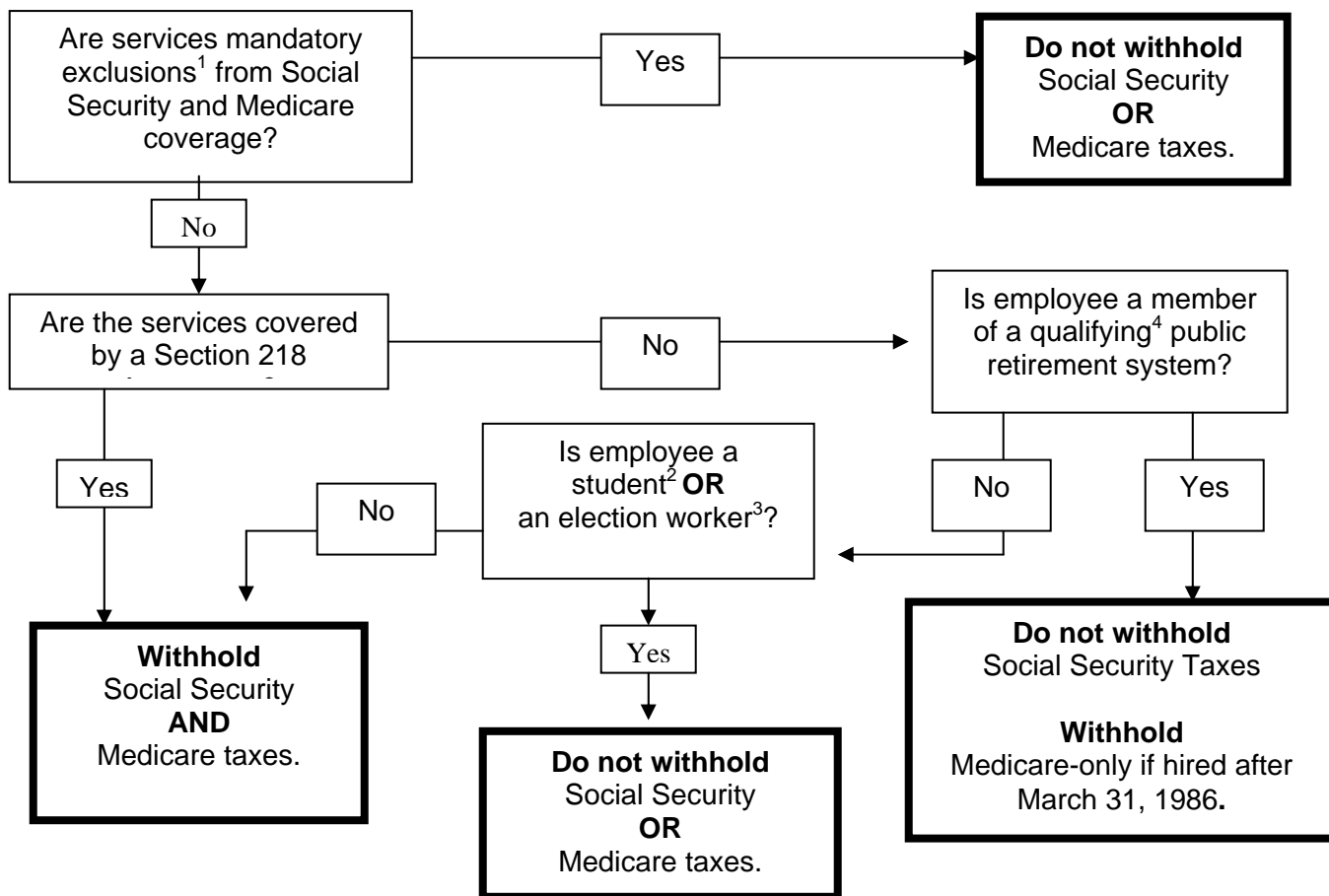
See [Publication 15-B](#), Employer's Tax Guide to Fringe Benefits, for more information.

Section 218 History

- => **Before 1951** - No social security coverage for public employees.
- => **1951** - Section 218 Added to Social Security Act; coverage became available for positions not under public retirement systems
- => **1955** - Retirement systems allowed to participate in Section 218 coverage.
- => **Beginning April 20, 1983** - Terminations of 218 agreements are prohibited.
- => **4/1/86** - Mandatory Medicare coverage for all new hires; workers hired prior to this date in continuous employment remain exempt from mandatory coverage for those positions.
- => **7/2/91** - Mandatory social security. If an employer has positions not covered under a Section 218 Agreement these positions will be covered by mandatory social security. For positions covered by a Section 218 Agreement, coverage continues regardless of whether these positions are covered by a qualifying public retirement system.

Social Security Coverage

This chart is meant as a guide only and is not a substitute for discussing difficult Section 218 coverage situations with your State Social Security Administrator or taxation issues with your IRS FSLG agent.



¹**Mandatory Exclusions from Social Security and Medicare (FICA) coverage**

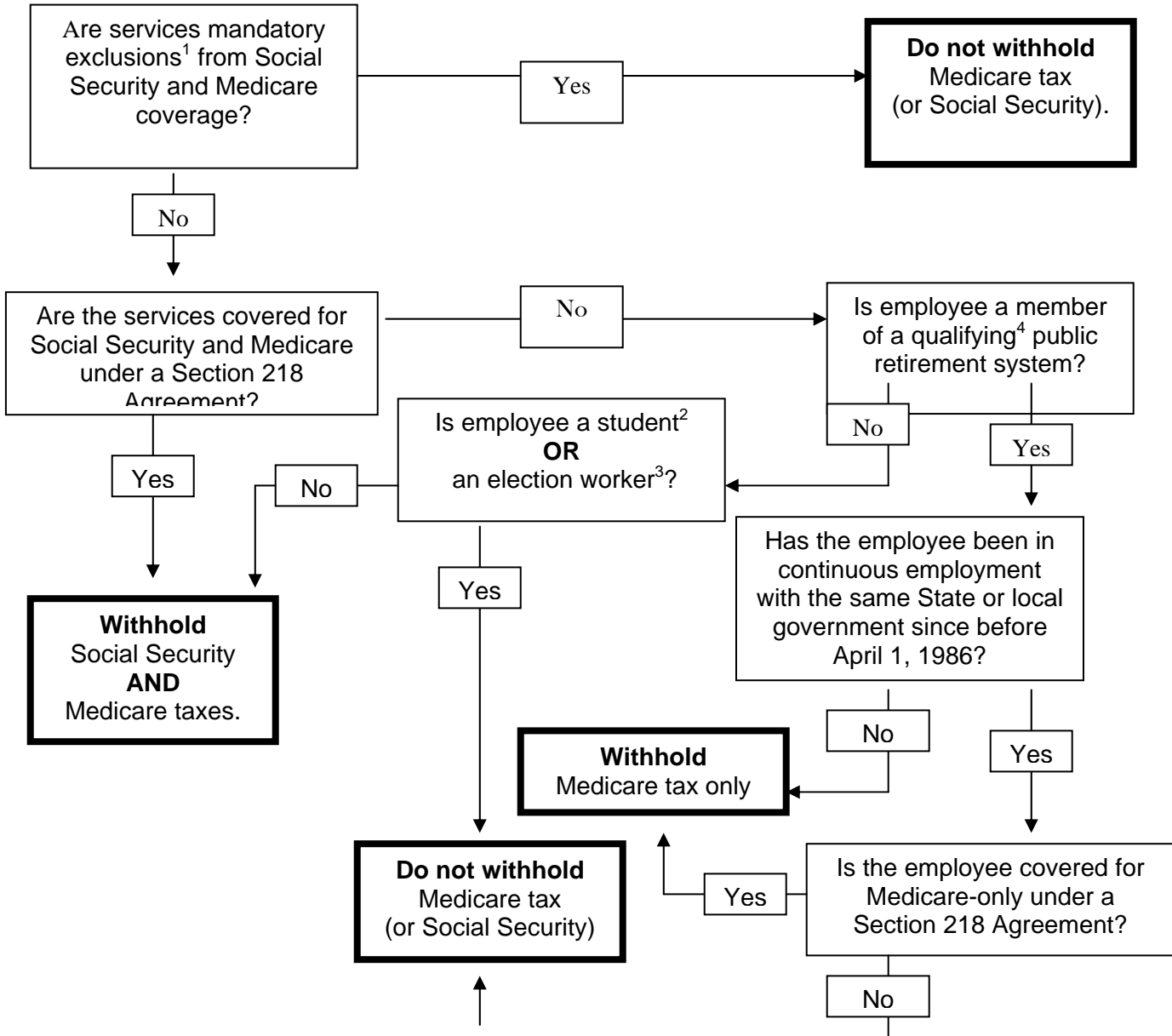
Services performed:

- by individuals hired solely to be relieved from unemployment
- in a hospital, home or other institution by a patient or inmate
- by workers hired on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar **emergency**
- by non-resident aliens with F-1, J-1, M-1 & Q-1 visas
- in positions compensated solely by fees that are subject to SECA
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- by students² enrolled and regularly attending classes at the school where they are working
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- by election workers³ paid less than the threshold amount mandated by law
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- that are excluded from definition of employment in Section 210 of the Social Security Act

⁴**Qualifying Public Retirement System** – See information under “Pension Coverage” in this booklet. For more information and discussion of **rehired annuitants**, see *Pub 963, Federal-State Reference Guide*.

Medicare Coverage

This chart is meant as a guide only and is not a substitute for discussing difficult Section 218 coverage situations with your State Social Security Administrator or taxation issues with your IRS FSLG agent.



¹**Mandatory Exclusions from Social Security and Medicare (FICA) coverage**

Services performed:

- by individuals hired solely to be relieved from unemployment
- in a hospital, home or other institution by a patient or inmate
- by workers hired on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency
- by non-resident aliens with F-1, J-1, M-1 & Q-1 visas
- in positions compensated solely by fees that are subject to SECA
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- by students² enrolled and regularly attending classes at the school where they are working
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- by election workers³ paid less than the threshold amount mandated by law
(NOTE: These services may be covered by a 218 Agreement and subject to FICA.)
- that are excluded from definition of employment in Section 210 of the Social Security Act

⁴**Qualifying Public Retirement System** – See information under “Pension Coverage” in this booklet. For more information and discussion of rehired annuants, see *Publication 963, Federal-State Reference Guide*.

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FORM 1099 INFORMATION

Who Must File

Any entity conducting a trade or business is required to file Form 1099 if the requirements are met. Government agencies and non-profit organizations are also required to file Form 1099.

Securing Vendor Information

Information Needed

Owner's name (if sole proprietor), legal business name, mailing address, taxpayer identification number.

When To Get Information

Obtain vendor information up front: don't wait until year-end. The requirement to file Forms 1099 is met once payments total \$600 or more.

Why Get The Information?

If you vendor fails to supply an identification number, you must withhold 28% and pay it over to the IRS on Form 945. This is called **backup withholding**. If you do not backup withhold when required, you may be liable for the tax.

How To Get The Information

Use Form W-9, Request for Taxpayer Identification Number and Certification.

Due Dates for Forms 1099

Copy is sent to the Recipient by January 31st of the following year and a copy A is sent to the IRS by February 28th of the following year.

File Form 1099 for:

Payments of \$600 or more for:

- Services (Form 1099-MISC)

- Rents (Form 1099-MISC)

- Retirement (Form 1099-R)

- Payments of \$10 or more for Interest (1099-INT)

Payments of \$600 or more to:

- Individuals

- Partnerships

- Estates

- Trusts

- Medical and Legal Service Providers

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FORM 1099 INFORMATION

EXAMPLES OF REPORTABLE PAYMENTS

Non-employee (Form 1099-MISC Box 7)

Accounting services
Advertising
Appraisal services
Attorney fees
Auto repair
Construction
Consultant fees
Custodial/Maintenance
Engineering services
Landscapers, locksmiths
Photographers, printing services
Referees
Rubbish removal

Medical & Health Care Services (1099-MISC Box 6)

Ambulance services
Dentists
Doctors
For-profit hospitals
Lab services
Optometrists
Private duty nurses
Psychiatrists, psychologists
Rehabilitation centers
Therapists

Rents (Form 1099-MISC Box 1)

Office space
Parking lot space
Welfare rental assistance (to landlords)
Equipment

NOTE: Certain payments and recipients are exempt from the requirements, including:

Payments to exempt organizations and governments
Generally, payments to corporations BUT not attorneys' fees, medical and health care payments
Payments of rent to real estate agents

See the [Instructions for Form 1099-MISC](#) and [General Instructions for Forms 1099, 1098, 5498, and W-2G](#) for more information.

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FORM 1099 AND BACKUP WITHHOLDING FACT SHEET

1. IRC 6041(a): Information at source

All persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, of \$600 or more in any taxable year shall render a true and accurate return setting forth the amount of such income and the name and address of the recipient of such payment.

2. Recipient to furnish name, address and identification number for inclusion on return

Any person with respect to whom a return or statement is required under this section shall furnish to such other person his name, address and identification number.

3. Inclusion of identification number on return

The person to whom an identification number is furnished shall include such number on any return that such person is required to file.

4. Statements required to be furnished to persons with respect to whom information is required

Every person required to make a return shall furnish to each person a written statement. The meaning of "return or statement required" is the proper Form 1099 or Form W-2.

5. Regulation 1.6041-1: Return of information as to payment of \$600 or more

Every person engaged in a trade or business shall make an information return for each calendar year with respect to payments made by him to another person: salaries, wages, commissions for services rendered, interest, rents, royalties, annuities, pensions, and other gains, profits, and income aggregating \$600 or more. The return required shall be made on Forms 1096 and 1099. The return with respect to certain payments of compensation to an employee shall be made on Forms W-2 and W-3.

6. Regulation 1.6041-3: Payments for which no return of information is required.

Information returns are not required for:

- a) Payments of income required to be reported on Forms 1042, 1120-S, 941, W-3, and W-2.
- b) Payments by a broker to his customer.
- c) Payments to a corporation, except payments to a corporation engaged in providing legal, medical AND health care services.
- d) Payments of bills for merchandise, telegrams, telephone, freight, storage and similar charges.

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- e) Payments of rent made to real estate agents.
- f) Salaries and profits paid or distributed by a partnership to the individual partners.
- g) Payments of commissions to general agents by fire insurance companies or other companies insuring property.

Payments for services not specifically excluded ABOVE require reporting on an information return.

7. IRC 3406: Backup Withholding

Requirement to deduct and withhold: In general, in the case of any reportable payment, if the payee fails to furnish his taxpayer identification number to the payer in the manner required, then the payer shall deduct and withhold from such payment a tax equal to 28% of such payment.

Coordination with other sections: Amounts deducted and withheld under this section shall be treated as if deducted and withheld under section 3402.

8. IRC 3403: Liability for tax

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment.

If a payer fails to deduct and withhold tax at a rate of 28% from a reportable payment, and the payee fails to furnish his TIN, the payer is then liable for the payment of the tax.

USEFUL WEB SITES

Internal Revenue Service, Federal, State and Local Governments

www.irs.gov/govts

Internal Revenue Service, Frequently Asked Questions

(Contains answers to questions on numerous Federal tax topics, including cafeteria plans)

www.irs.gov/faqs/index.html

Social Security Administration Homepage

www.socialsecurity.gov

Social Security Administration Web Site for State and Local Government Employers

www.ssa.gov/slge

National Conference of State Social Security Administrators (NCSSSA)

www.ncsssa.org

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SUMMARY: TREATMENT OF NONCASH FRINGE BENEFITS

The following chart is for quick reference only. For complete information, see the appropriate references.

Benefit or Program	Code Section or Reference	Income Tax Withholding	Social Security and Medicare
Accident Insurance	105, 106	Exempt, except for certain long-term care benefits.	Exempt
Adoption Expenses	137	Exempt	Taxable
Athletic Facilities, on employer premises	132(j)(4)	Exempt if substantially all use is by employee, spouse or dependent children.	
Achievement Awards	74, 274, Pub. 15-B, Pub. 535	Value of noncash safety or length-of-service awards valued up to \$400 for nonqualified or \$1,600 for qualified awards. See Pub. 15-B and 535, chapter 2.	
Cafeteria Plan Benefits (see specific benefit)	125, Pub. 15-B	Generally exempt. See Pub. 15-B.	
Clothing Provided	162 Pub. 17	Exempt, if required and not suitable for ordinary use.	
Dependent Care Assistance	129, 3121(a), 3401(a)	Exempt up to \$5,000 (\$2,500 for married filing separate return) per year.	
Disability Pay	Pub. 15-A	See Pub. 15-A.	
Educational Assistance	127	Exempt for up to \$5,250 of benefits per year. May also qualify as working condition fringe benefit.	
Group Term Life Insurance	79	Exempt	Exempt up to cost of \$50,000 of insurance.
Health Insurance	105, 106	Exempt, except for certain long-term care	Exempt.

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Benefit or Program	Code Section or Reference	Income Tax Withholding	Social Security and Medicare
		benefits.	
Lodging Provided Employer	119	Exempt if for employer's convenience as a condition of employment.	
Meals Provided	119	Exempt if furnished on employer's premises for employer's convenience, or if qualifies as de minimis.	
Membership Fees Paid	132(a)(3)	Exempt if for professional and business-related organizations and reasonable business purpose.	
Moving Expenses	217; Pub. 521	Exempt if expenses would be deductible if the employee had paid them.	
No additional cost services	132(b)	Exempt. See Pub. 15-B.	
Sick Pay	Pub. 15-A	See Pub. 15-A.	
Tuition Reduction	117	Exempt if for undergraduate education (or graduate education if the employee performs teaching or research activities).	
Travel Expenses	162, Pub 15, Pub 15-A	Exempt if paid under an accountable plan for necessary expenses. See Pub. 15-A.	
Vehicle provided by employer	280F, Pub. 15-B	Exempt if provided for business use. See Pub. 15-B.	
Working condition fringe benefit	132(d), Pub. 15-B	Exempt. See Pub. 15-B.	

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REQUEST FOR ASSISTANCE

We at the Internal Revenue Service are very interested in trying to assist you in complying with the tax laws. Please take a moment to jot down any questions you have. We will respond as soon as possible.

NAME OF ENTITY _____

NAME OF REQUESTOR _____

DAYTIME PHONE NUMBER _____

E-MAIL ADDRESS _____

DATE OF REQUEST _____

SUBJECT OF REQUEST (Please include any additional information below)

Mail, E-mail or fax your request to your state coordinator
(See attached addresses)