

The Kentucky Division of Social Security *...leading the way*

Local Government Edition

<http://sssa.state.ky.us>

HB 637

FICA Coverage for Substitute Teachers Covered by KTRS

As of July 1, 2002, substitute and part-time teachers were mandated into the Kentucky Teachers Retirement System by HB 637. The result of HB 637 is the substitute and part-time teachers now contribute to and are covered by the KTRS.

What is the FICA tax withholding status of a substitute or part-time teacher at a board of education after the implementation of HB 637? Generally, these teachers are subject to Medicare-only withholding. However, use the following steps to determine the social security and/or Medicare coverage for your substitute or part-time teacher contributing to the KTRS.

- 1) *Service performed at a board of education, in a certified position, on a substitute or part-time basis is exempt from social security and Medicare withholding under the board's Section 218 agreement.*
- 2) *An employee whose service is not covered for social security and Medicare under the Section 218 agreement, but who is a member of the KTRS is generally exempt from social security taxes under IRC 3121(b)(7)(F). Accordingly, such a substitute or part-time teacher who is contributing to KTRS is not subject to social security withholding.*
- 3) *Service performed by a substitute or part-time teacher, who is exempt from social security withholding under the Section 218 agreement and IRC 3121(b)(7)(F), is generally subject to Medicare-only withholding. See Q&A 4 of IRS Revenue Ruling 86-88.*

IN MEMORIAM

Patrick L. Doyle
1941-2002

Director of the Division of Social Security
1988-2002

IRS Plans to Assess Penalties for Name and SSN Mismatches

The Internal Revenue Service is planning to assess penalties against employers whose Forms W-2 have mismatched employee names and social security numbers. The penalties are targeted to begin for those Forms W-2 filed for the tax year 2002. The first notices are expected to be mailed in mid-2004. The IRS said that the starting target date was not firm, however.

The implementation of the penalties is provided for under IRC Sec. 6721. A de minimis exception will apply to employers with 10 or fewer mismatches or mismatches on one-half of one percent of all Forms W-2 filed by an employer.

The penalty for Forms W-2 with incorrect information and that are not corrected on or before August 1 of the year of the filing deadline is \$50 per Form W-2, with a maximum penalty of \$250,000 per calendar year.

It is estimated that one in nine US employers received a “no-match letter” from the Social Security Administration for the Forms W-2 filed for tax year 2001. A no-match letter indicates the employer filed a Form W-2 for which the name and SSN are not a match in SSA records. The letter does not levy a penalty, but SSA will share the information with the IRS, which may assess the penalty.



New Documentation Required for Noncitizens

The most recent instructions, beginning September 1, 2002, require the Social Security Administration to verify with the Immigration and Naturalization Service the status of all noncitizens applying for an original or replacement social security card. SSA, in some cases, is able to verify such status through the INS computer system. Often, however, the SSA must verify the noncitizen status by sending copies of immigration documents to the INS. This may add anywhere from

several weeks to several months to the processing of the SSN application. SSA said it is working closely with the INS to minimize the delays in the verification process.

In addition, new social security documentation requirements for students with the INS designated visa status “F-1” have also been mandated. Local social security offices have been instructed to notify educational institutions in their service areas about the new documentation requirements for foreign students.

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Election Worker FICA Threshold is \$1,200 for 2002

Wages paid election workers are not subject to FICA (neither social security or medicare) if the remuneration paid is less than the established threshold of \$1,200 for the tax year 2002 according to section 218(c)(8) of the Social Security Act. Wages paid for election worker services are not subject to federal income tax withholding according to IRS regulation §31.3401(a)-(b)(2).

Kentucky election workers who receive less than \$600 per year for their services are generally not required to have these earnings reported to the Internal Revenue Service by their county. Revenue Ruling 2000-6 provides guidance concerning the tax reporting requirements for wages paid election workers

KRS 141.010 excludes income earned by precinct workers from gross income for state income tax purposes. Various KRS sections also prohibit the imposition of a license fee or occupational tax against election worker income.

Section 6041(a) of the Internal Revenue Code, and the regulations thereunder, is the applicable section for information return reporting requirements for election workers. There is no reporting requirement with respect to an election worker who is paid less than \$600 per calendar year. The wages are, however, reportable on Form W-2 if the election worker is paid \$600 or more. Annual wages of \$1,200 or more in 2002 are subject to FICA withholding and Form W-2 reporting but not federal income tax withholding. NOTE: Special rules apply if a regular county employee also serves as an election worker. Contact the Division of Social Security for details.

The applicable laws, withholding and reporting requirements are illustrated in the following examples:

- 1) An election worker is paid \$599 in 2002.
* No FICA, federal income, state income or local occupational tax withholding is required and no Form W-2 is required.
- 2) An election worker is paid \$1,199 in 2002.
* No FICA, federal income, state income or local occupational tax withholding is required, but a Form W-2 will be issued reflecting \$1,199 in box 1 (Wages, tips and other compensation).
- 3) An election worker is paid \$1,200 in 2002.
* FICA withholding is required, but no federal income, state income or local occupational tax is withheld. The election worker will be issued a Form W-2 reflecting \$1,200 in boxes 1, 3 and 5 and the appropriate FICA tax withholding in boxes 4 and 6.

Distinguished Educator Program

The distinguished educator who is paid both the regular salary and the distinguished educator salary supplement by the home school district and who is a qualified participant in KTRS for the regular salary is excluded, for both wage payments, from the social security portion of the FICA tax. These wages would be subject to the Medicare portion of the FICA tax unless the continuing employment exception applies. This guidance--provided by the IRS--is based on the premise that the educator is performing services in a KTRS position not covered under the Section 218 agreement, that the KTRS is a qualified retirement system under IRC 3121(b)(7)(F) and that the home school district is the employer.

Attention

The social security maximum for 2002 is \$84,900.

New Addresses for IRS Forms

State and local government entities have a new address for filing of Forms 941 and 945. Forms without a payment are to be sent to the IRS Service Center at Ogden, UT and forms with a payment are to be sent to the Dallas Service Center. The new addresses are effective immediately.

FORM	With Payment	No Payment
Form 941 (employer's quarterly federal tax return)	IRS Service Center PO Box 660264 Dallas, TX 75266-0264	IRS Service Center Ogden, UT 84201-0005
Form 945 (annual return of withheld FIT)	IRS Service Center PO Box 660443 Dallas, TX 75266-00443	IRS Service Center Ogden, UT 84201-0042

Now Available on the Web

DOSS address: <http://sssa.state.ky.us>

- The Social Security Administration has just released the 2002 magnetic media/electronic filing specifications for Form W-2. Go to <http://www.ssa.gov/employer/02mmref1.txt> for the 2002 MMREF format located on the SSA web page.
- The latest edition of Publication 963, the Federal-State Reference Guide is now available at <http://www.state.ky.us/agencies/finance/depts/ss/p963.pdf>. Pub 963 is the primary reference guide for Kentucky governmental employers on employment tax, social security coverage and benefit issues.
- The latest per diem travel rates for Kentucky can be found at <http://www.state.ky.us/agencies/finance/depts/ss/perdiem.htm>. The rates are effective beginning October 1, 2002.
- Check the DOSS website (<http://sssa.state.ky.us>) regularly for the new Forms W-4 and W-5, as well as the 2003 income tax withholding table. This items will be posted as soon as the are made available from the IRS.

New for 2002 Forms W-2

If you file the 2002 Forms W-2 with the Social Security Administration electronically (not by magnetic media), the due date is extended to March 31, 2003. For information on how to file electronically, contact the SSA's Steve Seithers at 859/294-5153, ext. 3055.

A limited number of Forms W-2 and W-3 may be filed online using the SSA web site at www.ssa.gov/employer. The site allows the printing of the forms for filing with the state or local governments, distribution to employees and for the employer's records. Contact Seithers for more information on this also.

An employer reporting sick pay payments made by a third party must now check the third-party sick pay box (Box 13) on the 2002 Form W-2. See Sick Pay Reporting in section 6 of Publication 15-A.