



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

Local Government Edition

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

What is a Section 218 Agreement?

Kentucky's local government agencies provide social security coverage, generally, for their employees by entering into a Section 218 Agreement with the Kentucky Division of Social Security. A Section 218 agreement is a written contract that provides social security and/or medicare coverage to some or all employees of the agency.

Once a Section 218 Agreement is enacted, any services performed by an employee will be covered, unless specifically excluded in the agreement. Coverage may not be terminated once enacted under a Section 218 agreement.

To determine if your agency is covered under a Section 218 Agreement, or needs to execute one, contact the Division at 502/564-3952.

W-2 Online for Small Governmental Employers

If you are an employer who will report 20 or less W-2 forms for tax year 2002 then W-2 Online is the reporting method for you! You can complete up to 20 Forms W-2 right on your computer, electronically submit them to Social Security Administration and print copies suitable for distribution to your employees.

W-2 Online is a service of the federal Social Security Administration (SSA) that lets certain filers create, save, print and submit up to 20 Forms W-2 on the Internet. You file these Forms W-2 and W-3 online using the SSA web site. The site also allows you to

State Social Security Administrator

Each state has its own state social security administrator. The director of the Division of Social Security is the state administrator for the Commonwealth. The state administrator acts for the state in maintaining and administering the provisions of the Section 218 agreement.

The Division is the main resource for information about social security and medicare coverage and reporting issues for state and local government employers under the terms of Kentucky's Section 218 agreement.

The Division is the first contact for ANY questions relating to social security and medicare coverage under a Section 218 agreement, such as:

- Does a particular public employer have a Section 218 agreement?
- Which positions are covered?
- Are they covered for full social security (Retirement, Survivors, Disability, Hospital Insurance) or medicare-only?
- Are any positions or services excluded (i.e., student services, elective positions)?

The Division interprets the provisions of the Section 218 agreement as well as state law, retirement system and personnel rules to determine social security and medicare coverage for Kentucky's governmental employees.

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Information Return Reporting for State & Local Governments

A governmental entity, must generally file an information return for each calendar year with respect to payments made during the calendar year in the course of its trade or business.

A Form 1099-MISC should be filed for each person who is paid at least \$600 for rents, services (including parts and materials), prizes and awards, or other income payments. If payment for services includes amounts paid for labor and parts, include both amounts on the Form 1099-MISC. For more information, see Instructions for 1099-MISC on the IRS web page at <http://www.irs.gov/pub/irs-pdf/i1099m03.pdf>.

There are special rules that may apply to payments to attorneys, medical service providers and corporations. For more information on Form 1099 requirements, see an informational fact sheet for governmental entities on the IRS web page at <http://www.irs.gov/govt/fslg/article/0,,id=110125,00.html> or contact Ray McLennan, IRS governmental specialist, at 270.442.2607 ext. 127.

Filing Forms W-2 with SSA by Magnetic Media

If your entity files Forms W-2 with SSA on magnetic tape or cartridge, you will be required to file electronically beginning in tax year 2005. If your company files Forms W-2 with SSA on diskette, you will be required to file electronically starting in tax year 2006. Employers who have 250 or more Forms W-2 are required to file those forms by either magnetic media or electronically.

Electronic filing is now the preferred method for filing Copy A of Forms W-2 with SSA. In fact, last year more than 109 million Forms W-2 were filed electronically. It saves time and money and it's a completely paperless process, so there are no Forms 6559 to file. Plus, you get an extra month to file, which could reduce year-end stress. (W-2s filed electronically are due the last day of March versus the last day of February for other filing methods.) Once you've uploaded your wage report, you'll receive an immediate on-screen acknowledgement of receipt that you can print and keep as proof of filing.

Entities who file on magnetic tape, cartridge or diskette currently format their reports according to SSA's Magnetic Media Reporting and Electronic Filing format (MMREF). Your electronic file uses the exact same MMREF, so reprogramming is not necessary. Just follow your usual year-end process up to the point where you would create the W-2 report on a tape, cartridge or diskette.

Instead of mailing SSA the tape, cartridge or diskette, you'll log onto the SSA web site and upload the file. You'll need to register first for a PIN and password, which you may already have since the PIN, is required when submitting a tape, cartridge or diskette.

Contact Steve Seithers (859.294.5153 ext. 3055) or Jason Cornett (859.219.1461 ext. 111) for assistance with or information on filing Forms W-2 electronically. You may also log on to the SSA employer web site at <http://www.ssa.gov/employer/>.

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Student FICA Exclusion

Most Kentucky school boards opted for the student exclusion to be a part of their Section 218, social security coverage agreement. Under the student exclusion, student services are excluded from social security and medicare coverage if the services are performed in the employ of a school by a student who is enrolled and is regularly attending classes at such school.

The school for which the work is done need not be the same school the student is attending, but both must be a part of the same school district. Thus, services of a student attending classes at a high school and working part-time at a county elementary school, both of which are integral parts of the same school district, are excluded.

The student exclusion applies only during periods of regular school attendance. The exclusion does not apply to work done during summer vacation if the student is not attending a summer session. This is true even though the student was enrolled and regularly attending classes in the school during the previous year and expects to return to school the following year.

Services performed by students on holidays—such as Christmas break—weekends, seasonal breaks and between semesters falling within the academic year when classes are not scheduled are excluded.

However, certain questions have arisen concerning students who may be participating in a federal program to whom the board of education pays remuneration but who performs service for another entity. These entities may be private business or other public entities.

The status of such a student's services, for social security and medicare coverage purposes, depends on the identity of the actual employer for whom the services are performed. The actual employer is that entity that has the final authority to direct how, when and where the employee's services will be performed.

Where the students' services are performed for a private employer or for another governmental entity that has authority to control

Filing Form 941

Employers who withhold income tax on wages, or who must pay social security or medicare tax, must file Form 941 each calendar quarter. You must file a return for each quarter, even if you have no taxes to report.

Use Form 941 to report:

- Income tax that you withheld from wages (including tips) and third-party payments of sick pay.
- Social security and medicare taxes.

Penalties and Interest

There are penalties for filing Form 941 late and paying or depositing taxes late, unless there is reasonable cause. If you file late, please attach an explanation to your return.

There are also penalties for failure to:

- (a) Furnish Forms W-2 to employees and file copies with the SSA or
- (b) Deposit taxes when required.

In addition, there are penalties for willful failure to file returns and pay taxes when due and for filing false returns or submitting bad checks. Interest is charged on taxes paid late at the rate set by law.

Reconciliation of Forms 941 and W-2

Certain amounts reported on your four quarterly Forms 941 for 2003 should agree with your Form W-2 totals reported on Form W-3, or equivalent magnetic media reports filed with the SSA.

The amounts that should agree are:

- Income tax withholding
- Social security wages
- Social security tips
- Medicare wages and tips
- Advance earned income credit payment.

If the totals do not agree, the IRS or SSA may require you to explain any differences and correct any errors.

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Volunteer Firefighters

Many questions have been raised recently concerning situations involving volunteer firefighters. The IRS has published guidance on this issue in the following two publications.

FSLG Summer newsletter: http://www.irs.gov/pub/irs-tege/sum03_fslg_ng.pdf (page 11)

Publication 963: <http://www.state.ky.us/agencies/finance/depts/ss/p963.pdf> (pages 3-8 and 4-16)

Generally, the IRS considers volunteer firefighters to be employees of the governmental entity for which they perform services. Social security and/or medicare coverage is determined based on the terms of the entity's Section 218 social security coverage agreement or on the employee's participation on a qualifying retirement system.

Contact the Division of Social Security for questions concerning coverage under a Section 218 agreement.

Student FICA continued from page 3

the performance of those services, that organization is the employer for coverage purposes. The wages received for this work is generally subject to social security and medicare withholding, even though the Board pays the wages to the student. The IRS considers the board the "payor" under withholding rules and the board is responsible for withholding and reporting the applicable employment taxes. (Note: Social security/medicare coverage at other governmental entities is based on the requirements of their Section 218 agreement and the mandatory FICA coverage provisions.)

See a student exclusion fact sheet on the Division's web site at <http://www.state.ky.us/agencies/finance/depts/ss/student.pdf>.

W-2 Online continued from page 1

print out copies of the forms for filing with state or local governments, distribution to your employees and for your records.

The Commonwealth of Kentucky does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the providing of services and will provide, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

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