

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



Local Government Edition

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

Name and SSN Must Match on Form W-2

Each year Kentucky governmental employers submit to the Social Security Administration hundreds of Forms W-2 on which the names and the social security numbers do not match. When such a mismatch is submitted, the SSA is unable to record the earnings information in the employee's lifelong earnings history.

The SSA uses the earnings history to determine an employee's future eligibility and benefit amounts in the SSA's retirement, disability and survivors programs. That is why it is so important that each employee's name and SSN (as shown on their social security card) match your payroll records and year-end Forms W-2.

In addition, the Internal Revenue Service can apply penalties to the employer to the tune of \$50 for each mismatched Form W-2 presented to an employee PLUS \$50 per mismatched Form W-2 submitted to the SSA.

The IRS *Publication 15, Circular E, Employer's Tax Guide* contains instructions for recording employee's names and SSNs. According to the tax guide, after an employee is hired, you should ask to see their social security card. Record the name and number exactly as they are shown on the card. (You may, but are not required to, photocopy the card.)

If the name is not correct as shown on the card or if an employee requests a name change on your payroll records because of

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Tax Compliance Program for 2003

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The Internal Revenue Service is initiating a compliance program for state and local governments. It involves the IRS conducting compliance checks, compliance reviews and examinations. Generally, the employer will receive a phone call setting up an appointment time and explaining which one of the compliance initiatives will be done. A letter will follow reaffirming the appointment time, stating what information or records to have on hand and explaining the employer's rights during the process. The following is a brief overview of each type of contact.

An examination (audit) is an inspection of a governmental entity's books and records. An examination also involves the questioning of witnesses to determine the entity's correct tax liability.

A compliance review is a review conducted by IRS under Internal Revenue Code section 6050I, to determine whether a government entity is meeting its record keeping and reporting requirements. IRS examiners must inspect books and records of the government entity to make a proper determination.

A compliance check is a review conducted by IRS, under Title 26 of the IRC, to

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marriage, divorce, etc., the employee must request a new social security card from the SSA. You should continue to use the employee's old name until they show you a new social security card with the new name.

The SSA can verify a social security number by calling their toll-free number for employers - 1-800-772-6270 - weekdays from 7:00 a.m. to 7:00 p.m. EST. You will be asked for the employer's company name and EIN. Then you will be asked to provide the following information for each name/SSN you want to verify (up to five).

1. SSN,
2. last name,
3. first name,
4. middle initial (if applicable),
5. date of birth, and
6. gender.

A correct social security card can be obtained by completing Form SS-5 (Application for a Social Security Card). The Form SS-5 can be obtained at any SSA office, by calling 1-800-772-1213 or from the SSA web site at www.ssa.gov. The Form SS-5 must be completed, signed and filed by the employee (not the employer).

New Internal Revenue Service Rulings

The Internal Revenue Service issued two revenue rulings and a public notice last month of interest to state and local employers.

Revenue Ruling 2003-46 provides guidance concerning the applicability of Medicare coverage and withholding for employees under "mandatory" social security coverage (employees not participating in an employer-provided, qualified retirement system). For detailed information, see page 878 in IRB 2003-19 on the IRS web site at <http://www.irs.gov/pub/irs-irbs/irb03-19.pdf>.

Revenue Ruling 2003-47 offers guidance on the tax treatment of several aspects of service awards for volunteer fire fighters. The ruling addresses a length of service award plan described in IRC Section 457(e)(11)(A)(ii), when benefits under such a plan are included in gross income and when benefits paid under the service award plan are wages for FICA withholding. The ruling in its entirety may be viewed at <http://www.irs.gov/pu/irs-drop/rr-03-47.pdf>.

The IRS has issued Notice 2003-20 that details withholding and reporting requirements for deferred compensation plans that cover state and local government employees. The notice addresses income tax and FICA withholding/reporting concerns. The notice is available on the IRS web site at <http://www.irs.gov/pub/irs-drop/n-03-20.pdf>.

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On the Division of Social Security Web Site

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

The following items for summer 2003 are now available:

- Form W-4--Changes the amount of federal income tax withholding from wages
- Form W-5--Earned Income Credit advance payment certificate
- Latest IRS Federal, State, and Local newsletter http://www.irs.gov/pub/irs-tege/spr03_fslg.pdf

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determine whether a government entity is adhering to record keeping and information reporting requirements. It is neither an investigation, under section 7605(a) of the IRC, nor an audit, under section 530 of the Revenue Act of 1978. A compliance check does not directly relate to determining a tax liability for any particular period. The compliance check is a tool to help educate Kentucky governmental employers about their reporting requirements to help increase voluntary compliance. At the beginning of a compliance check, the IRS representative will inform the government entity that the review is a compliance check and not an audit or examination.

During compliance checks a review is made of information forms that the IRS requires government entities to file or maintain; for example, 941s, W-2s, 1042s, 1099s, or W-4s. In such a compliance check, the IRS may ask government entities whether they understand or have questions about the filing requirements for these forms. The IRS may also ask the government entity if they have filed the proper forms for any workers to whom they made payments. If not and the government entity acknowledges it should have, the IRS may ask the government entity to file them voluntarily. If the government entity does not voluntarily file the forms, the IRS may prepare substitute returns under IRC Section 6020(b) or initiate an examination.

The IRS will not ask to examine any books and records during compliance check or ask questions regarding tax liabilities. This means that the IRS will not ask government entities why they treat an expense a certain way or the reason they treat a worker as an employee or independent contractor. The IRS typically asks these types of questions during an audit or examination to determine a government entity's correct tax liability. If, during a compliance check, the IRS decides an audit or examination is appropriate, the IRS will notify the government entity that it is commencing an examination before asking questions that relate to tax liability.

A government entity may refuse to participate in a compliance check without penalty. The IRS has the option of opening a formal investigation, whether or not the government entity agrees to participate in a compliance check. The IRS can make compliance checks as often as facts and circumstances warrant. There is no safe harbor under section 530 of the Revenue Act of 1978.

IRS Issues New Publication on Tax Exempt Bonds

The Internal Revenue Service has announced that its new Tax-Exempt Governmental Bonds Guide (Publication 4079) is available on the IRS web site at www.irs.gov/bonds. It is also available by calling 1-800-829-3676.

The publication provides state and local governments with an overview of the key federal tax rules that generally apply to municipal financing arrangements, commonly known as governmental bonds. It provides information about filing requirements, the basic rules related to governmental bond issuances as well as an overview of the law relating to the use of bond proceeds and bond-financed property. There is also a brief introduction to the arbitrage and rebate concepts and refunding bonds. The guide provides bond issuers with an overview of the various outreach and educational services provided by the IRS.

This publication is the first of three planned by the IRS in an effort to provide assistance to bond issuers and those contemplating bond financing as a means of addressing community fiscal needs. Future publications will address the rules applicable to 501(c)(3) bonds and other qualified private activity bonds. To learn more about the TEB program available, visit its web site at www.irs.gov/bonds.

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.

New Federal Tax Tables on IRS Web Site

The Internal Revenue Service has posted to its web site new tables for employers to use in calculating federal income tax to withhold from workers' wages.

The new tables contain the percentage method formulas and the wage bracket method tables. The IRS expects to mail printed copies of Publication 15-T, containing all the tables, to employers nationwide by the third week of June.

The tables reflect changes made by the Jobs and Growth Tax Relief Reconciliation Act. Employers are requested to use the new tables as soon as they can work them into their payroll systems. Barring unusual circumstances, they should implement them not later than July 1, 2003. The tables incorporate tax rate changes for most taxpayers and the higher standard deduction for married couples.

In making tax rate changes retroactive to the beginning of 2003, Congress recognized that tax withholding has already occurred at the higher rates required under the prior law. The new law's Conference Report states that taxpayers who have been overwithheld as a consequence of this can obtain a refund through the normal process of filing an income tax return, and **not** through the payor. Therefore, employers and others that withhold taxes should not attempt to correct amounts withheld at the rates required under the law before they could implement the new withholding rates.

Employees may adjust their withholding to bring the tax paid closer to the tax owed, but they may not claim more allowances than they are entitled to, based on their expected exemptions, deductions and credits. To avoid an estimated tax penalty for not paying enough during the year, they may want to see how much their withholding drops before making further adjustments.

Effective for wages paid after May 28, 2003 (or as soon as possible thereafter), the supplemental flat withholding rate is decreased to 25 percent and the back up withholding rate is decreased to 28 percent.

Access the advance copy of the tax tables on the IRS web site at <http://www.irs.gov/pub/irs-pdf/n1036.pdf>.

FICA and Emergency Labor

The social security coverage agreement for Kentucky's local governments with the Social Security Administration specifically excludes emergency services from social security and Medicare withholding. Contact the Kentucky Division of Social Security at 502/564-3952 for information on this exclusion from FICA taxes.

Emergency services is defined in Section 218(c)(6) of the Social Security Act as all services performed by an individual as an employee serving on a **temporary basis** in case of fire, storm, snow, earthquake, flood, volcanic or other similar emergency. In general, services performed because of an unforeseen event calling for immediate action have been held to be emergency services. This exclusion applies to services of an employee who was hired because of the emergency to do work in connection with that emergency. The fact that employment was of short duration does not in itself establish that an emergency existed.

The emergency exclusion applies only to service on a temporary basis. Individuals who are in a continuing employment relationship for the purpose of working whenever an emergency arises are **not** performing emergency services on a temporary basis. For example, an individual hired temporarily by a county because of recent flooding only to do work in connection with the flooding would be excluded from social security and Medicare withholding under the emergency exclusion. A regular county employee in a continuous employment relationship with the county who also does flood related work would **not** be excluded from social security and Medicare withholding.

Information concerning the application of federal income taxes is under the purview of the IRS. We have been informed the IRS generally views any temporary employee hired because of an emergency to be an employee for the withholding of federal income taxes and W-2 issuance. You may contact Ray McLennan of the IRS (270/442-2607 ext. 127) for additional information.