



Social Security Coverage and Reporting

Winter 2016-17 Edition

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FICA Taxation of Mandatory Employee Retirement Contributions

To: All State and Local Government Employers

Under a Memorandum of Agreement between the Commonwealth of Kentucky and the Internal Revenue Service, effective on January 1, 2017, both the taxable FICA wages and taxable Medicare wages will be calculated on the employees' gross wages rather than allowing a deduction of the employee's pension contribution. This settlement affects all State and Local Governmental employers within the Commonwealth of Kentucky.

Beginning next year, each governmental employer and their respective employees will each have to pay the increased amount of FICA and/or Medicare taxes. But, the additional contributions in the FICA taxes will result in increased Social Security benefits upon retirement. For CY 2017, the current FICA tax rate is 6.2% up to \$127,200 and the current Medicare tax rate is 1.45%

Thus, effective January 1, 2017 all Kentucky State and Local Governmental employers must calculate the FICA taxes and/or Medicare taxes on their employee's gross salary rather than reducing the gross salary by the employee's pension contribution.

The deduction was originally allowed based upon the term "picked up by the employer pursuant to a salary reduction agreement" in Sec.218 of the Internal Revenue Code. The federal courts have redefined that this sentence means that the employer themselves must pay the amount of the pension contribution for the employee rather than deducting it from gross salary when they forward the withholdings to the pension system for it to be recognized as "picked up".

It should be noted that the income tax withholding calculation for the State and Local Governmental employees will not change. Their pension contribution deduction will continue to be allowed for the calculation of their federal and state income tax withholding.

Please contact J. W. Bryan, State Social Security Administrator at jw.bryan@ky.gov or at (502) 564-6879 if you have any questions.

FILING FORMS W-2 ELECTRONICALLY

Electronic filing is now the preferred method for filing Copy A of Forms W-2 with the Social Security Administration (SSA). Once you've uploaded your wage report, you will receive an immediate on-screen acknowledgement of receipt that you can print and keep as proof of filing. For more information, log on to the SSA Employer website at <http://www.ssa.gov/employer/>.

The new due date for filing 2016 Forms W-2, W-2AS, W-2CM, W-2GU, W-2VI, W-3 and W-3SS with the Social Security Administration is now on or before **January 31, 2017**, whether filing electronically or using paper forms. For more information regarding general instructions for Forms W-2 and W-3, go to <https://www.irs.gov/instructions/iw2w3>.

Important Dates:

- Electronic filing on BSO can begin on **December 12, 2016**
- The deadline to distribute employee's Forms W-2 is **January 31, 2017**.
- The deadline to file using paper Forms W-2 is **January 31, 2017**.
(Note: If you have 250 or more Forms W-2 to file, you must file electronically or request a waiver from the SSA allowing you to file over 250 paper copies.)
- The deadline to file electronically using BSO is **January 31, 2017**.

NEW DUE DATE FOR FILING WAGE REPORTS WITH THE IRS

Public Law 114-113, Division Q, section 201, requires Form 1099-MISC to be filed on or before **January 31, 2017**, when you are reporting non-employee compensation payments in box 7. Otherwise, file by February 28, 2017, if you file on paper, or by March 31, 2017, if you file electronically. The due dates for furnishing payee statements remain the same. For more information regarding general instructions for 1099 and other forms, go to <https://www.irs.gov/pub/irs-pdf/i1099gi.pdf>.

Related Links:

SSA's Specifications for Filing 2016 Forms W-2 Electronically:
<https://www.ssa.gov/employer/EFW2&EFW2C.htm>

Reminders and Changes for Tax Year 2016 Reporting:
<https://www.ssa.gov/employer/remindersChangesTY16.pdf>

2017 SOCIAL SECURITY AND MEDICARE TAX RATES

The social security and Medicare tax rates for 2015 are unchanged from 2014. The social security rate is 6.2% for both the employee and employer shares. The social security maximum wage limit is \$118,500. The Medicare rate is 1.45% for both the employee and employer shares. There is not a maximum wage limit for Medicare.

Social Security Rates

Employee: 6.2%

Employer: 6.2%

Combined: 12.4%

Maximum Wage Limit: \$127,200

Medicare Rates

Employee: 1.45%

Employer: 1.45%

Combined: 2.9%

Maximum Wage Limit: No Limit

Social Security and Medicare Combined Rates

Employee: 7.65%

Employer: 7.65%

Combined: 15.3%

The above information was made available by the Social Security Administration (SSA) via OASDI and SSI Program Rates and Limits fact sheet at https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/index.html.

The Internal Revenue Service (IRS) published Notice 1036 in mid December that includes the 2017 Percentage Method Tables for Income Tax Withholding. To view Notice 1036 go to <https://www.irs.gov/pub/irs-pdf/n1036.pdf>. For the latest information about developments related to Notice 1036, such as legislation enacted after it was published, go to <https://www.irs.gov/uac/about-notice-1036>.

HOW TO REPORT A DECEASED EMPLOYEE'S WAGES

If an employee dies during the year, you must report the accrued wages, vacation pay, and other compensation paid after the date of death. The wages that were available to the employee while he or she was alive, regardless of whether they actually were in the possession of the employee, as well as any other regular wage payment must be reported as well, even if you may have to reissue the payment in the name of the estate or beneficiary.

If you made the payment after the employee's death, but in the same year the employee died, you must withhold social security and Medicare taxes on the payment and report the payment on the employee's Form W-2 only as social security and Medicare wages to ensure proper social security and Medicare credit is received. On the employee's Form W-2, show the payment as social security wages (box 3) and Medicare wages and tips (box 5) and the social security and Medicare taxes withheld in boxes 4 and 6. Do not show the payment in box 1.

If you made the payment after the year of death, do not report it on Form W-2, and do not withhold social security and Medicare taxes.

Whether the payment is made in the year of death or after the year of death, you also must report it in box 3 of Form 1099-MISC, Miscellaneous Income, for the payment to the estate or beneficiary. Use the name and taxpayer identification number (TIN) of the payment recipient on Form 1099-MISC. However, if the payment is a reissuance of wages that were constructively received by the deceased individual while he or she was still alive, do not report it on Form 1099-MISC.

Example:

Before Employee A's death on June 15, 2016, A was employed by Employer X and received \$10,000 in wages on which federal income tax of \$1,500 was withheld. When A died, X owed A \$2,000 in wages and \$1,000 in accrued vacation pay. The total of \$3,000 (less the social security and Medicare taxes withheld) was paid to A's estate on July 5, 2016. Because X made the payment during the year of death, X must withhold social security and Medicare taxes on the \$3,000 payment and must complete Form W-2 as follows.

- Box a – Employee A's SSN
- Box e – Employee A's name
- Box f – Employee A's address
- Box 1 – 10000.00 (does not include the \$3,000 accrued wages and vacation pay)
- Box 2 – 1500.00
- Box 3 – 13000.00 (includes the \$3,000 accrued wages and vacation pay)
- Box 4 – 806.00 (6.2% of the amount in box 3)
- Box 5 – 13000.00 (includes the \$3,000 accrued wages and vacation pay)
- Box 6 – 188.50 (1.45% of the amount in box 5)

Employer X also must complete Form 1099-MISC as follows.

- Boxes for recipient's name, address, and TIN—the estate's name, address, and TIN.
- Box 3: 3000.00 (Even though amounts were withheld for social security and Medicare taxes, the gross amount is reported here.)

If Employer X made the payment after the year of death, the \$3,000 would not be subject to social security and Medicare taxes and would not be shown on Form W-2. However, the employer would still file Form 1099-MISC.

THIRD PARTY SICK PAY RECAP REPORTING

The third party (or in certain cases, the employer) must file Form 8922 to report sick pay paid by a third party for or on behalf of employers for whom services are normally performed. Form 8922 doesn't show the names of individuals who received the third-party sick pay but the total amounts paid in the calendar year to all employees whose sick pay wages are required to be reported on Form 8922.

Third-party sick pay is reported on Form 8922 if the liability for the employer part of social security tax and Medicare tax has been shifted by the third party or insurer paying the sick pay to the employer for whom services are normally rendered. Whether the third party or employer reports the sick pay on Form 8922 depends on which entity is filing Forms W-2 reporting the sick pay paid to individual employees receiving the sick pay. The third party reports the sick pay on Form 8922 if the employer is filing Forms W-2 reporting the third party sick pay under the name and EIN of the employer. However, if the third party is filing Forms W-2 with respect to the sick pay under the name and EIN of the third party, the employer files Form 8922 reporting the sick pay.

If the third party is paying all employment taxes, including the employer part of social security tax and Medicare tax, with respect to the sick pay, the third party files Forms W-2 using its name and EIN as employer with respect to the sick pay for each employee receiving sick pay and reports social security and Medicare taxes and federal income tax withholding on its Form 941. Neither the third party nor the employer reports the sick pay on Form 8922.

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