

## SOCIAL SECURITY COVERAGE AND REPORTING BRANCH

### MASTER COMMISSIONER FAQ SHEET

#### 1. What Is FICA?

The Federal Insurance Contributions Act is a Federal Law that assesses Social Security and/or Medicare Taxes. The combined tax rate is 7.65% with the breakdown as follows: Social Security (Retirement, Survivors, and Disability) at 6.2% and Medicare (Hospital Insurance) at 1.45%.

The combined tax rate (employer and employee share) is 15.3%.

#### 2. Why does the State of Kentucky match FICA for Master Commissioners?

Based on two legal precedents, (*Shamburger v. Commonwealth, Ky, 240 S.W.2d 636 (1951)* and an October 7, 1953 OAG Letter), the Master Commissioner has been viewed as an employee of the Commonwealth for Social Security purposes. In keeping with the Section 218 Agreement of the Social Security Act, Section 218(b)(3), the term “employee” includes an officer of a State or political subdivision.

The Internal Revenue Code – Section 3401(c) defines “employee” as an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or an agency or instrumentality of any one or more of the foregoing . . . .

Since the positions of Master Commissioner are considered employees for Social Security purposes, the Social Security Coverage and Reporting Branch has the responsibility to report FICA wages for Master Commissioners. As of July 1, 2005, the Administrative Office of the Courts (AOC) is responsible for the matching of FICA wages.

#### 3. Who sets the maximum amounts for Master Commissioner Wages?

Rule 53.07 established the maximum amount for \$53,000 per annum for personal compensation derived from fees as a master commissioner, unless the Chief Justice approves a higher maximum. Our database resets the maximum wage at the beginning of each calendar year to \$53,000 for Master Commissioners and \$101,000 for Master/Domestic Relations Commissioners (\$53,000 for MC and \$48,000 for DRC) until we are notified in writing from the AOC or the Commissioner that the maximum wage has been increased for the current year.

#### 4. How does my membership in the Kentucky Retirement System (KRS) effect my gross wage?

Beginning January 1, 2017, the KRS retirement contribution is taxable for Social Security and Medicare taxes. This means, the contribution **should not** be deducted

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from the Social Security and Medicare gross wages. However, you will continue to deduct the 5% or 6% contribution from your Federal and State wages before calculating the taxes. *(If your KRS participation began before 9/1/2008, your contribution rate is 5%. After 9/1/2008, the rate is a 6%. If you are not sure of your participation date, contact KRS.)*

For example, if your monthly gross wage is \$4,000 and you are a member of KRS at a 6% rate, you would pay Social Security and Medicare taxes on \$4000.00 ( $\$4000 \times 6.2\% = \$248$  and  $\$4000 \times 1.45\% = \$58$ ). The 6% contribution would be deducted from your Federal and State taxes ( $\$4000.00 - 6\% = \$3760.00$ ). Therefore, on the Form SS-16, you would report \$4000 in wages for Social Security and Medicare and \$3760 in wages for Federal and State and remit the appropriate taxes.

Since the contribution is now taxable for Social Security and Medicare, the contribution percentage will no longer affect your maximum wages. If your annual maximum wage is \$53,000 then your retirement maximum wage will also be \$53,000. You will still need to notify our office if you or your employees join KRS to assure that the Retirement box on your Form W-2 will be marked correctly.

If you participate in a deferred compensation plan such as 401k or 457, you would also deduct the contribution amount from the Federal and State wages only. These contributions are also taxable for Social Security and Medicare.

Note: If you participate in the State's Health Insurance Plan, you should deduct the employee's premium from all wages.

#### **5. Why do I need to include the KRS contribution amount on the Form SS-16/SS-16a?**

Due to the changes in the taxation of the KRS contribution, our office now requires the KRS contribution amount to be reported on the monthly forms for auditing purposes. If you do not participate in KRS, enter zero or NA (not applicable) in this field.

#### **6. Are individuals who are Special Master Commissioners eligible for FICA matching?**

No. If a person has not been appointed Master Commissioner, then the status of a Special Master Commissioner is considered an independent contractor. Since special commissioners are specifically used in temporary, special circumstances and are not in the same relationship as an appointed Master Commissioner.

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However, if you are an appointed Master Commissioner assigned to do “special” work in another county, the fees generated shall be treated as follows:

a. The first \$5,000 earned annually from service as a Special Master Commissioner **shall not** count toward the Master Commissioner’s salary cap, and **should not** be reported to the AOC on the Annual Report of Master Commissioner or to the Social Security Coverage and Reporting Branch on the monthly Forms SS-16 or SS-16a.

b. Any fees in excess of \$5,000 earned annually from service as a Special Master Commissioner **shall** count toward the Master Commissioner’s salary cap, and **shall** be reported on the Annual Report of Master Commissioner and the monthly Forms SS-16 or SS-16a. For example, if \$5,100 is earned as a Special Master Commissioner, \$100 can be reported. This \$100 counts toward the maximum wage.

#### 7. Who else can receive FICA matching in a Master Commissioner’s Office?

Any person who performs services as an employee from the fees collected *could* be eligible for FICA matching. However, before reporting employees, the Master Commissioner **must** send a written request to the AOC for the approval of any staff. The Social Security Coverage and Reporting Branch **will not** match FICA for an employee that has not been approved by the AOC.

#### 8. When will I receive my W-2?

Our office mails the W-2s before January 31<sup>st</sup> and you should receive the W-2 by or around this time.

#### 9. What is the latest date to receive the final report without being issued a Form W-2c (Corrected Wage and Tax Statement)?

All reports need to be received in our office no later than January 15<sup>th</sup> in order to be processed in time to include with the W-2 wage and tax data. Any reports received after this date may result in a W-2c.

This fact sheet was designed to provide awareness of social security coverage and reporting responsibilities for Master Commissioners of the Commonwealth of Kentucky. This fact sheet should not be cited or used as authority with respect to federal employment taxes or the Administrative Office of the Court’s Master Commissioner Accounting Procedures.

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