Election Workers: Reporting and Withholding

Each election year, thousands of state and local government entities hire workers to conduct primary and general elections. To understand the correct tax treatment of these workers, you need to be aware of specific statutes that apply to them as well as whether they are covered by a Section 218 Agreement.

Who Are Election Workers?

Election workers are individuals hired by government entities to perform services at polling places in connection with national, state and local elections. An election worker may be referred to by other terms and titles, for example, poll worker, moderator, machine tender, checker, ballot clerk, voting official, polling place manager, absentee ballot counter or deputy head moderator. These workers may be employed by the government entity exclusively for election work, or may work in other capacities as well. Compensation paid to election workers is includible as wage income for income tax purposes, and may be treated as wages for Social Security and Medicare (FICA) tax purposes.

Election workers may be compensated by a set fee per day or a stipend for the election period. The election period may include attending training or meetings prior to and after the election. Election workers may also be reimbursed for their mileage or other expenses. To be excludable from wages, expense reimbursements must be made under an accountable plan (see Publication 5137, *Fringe Benefit Guide, Office of Federal, State and Local Governments*, for more information on accountable plans.)

Income Tax Withholding

Compensation paid for services and reimbursements paid under a non-accountable plan are taxable to election workers; however, they aren't subject to income tax withholding under Internal Revenue Code (IRC) Section 3401(a). However, Section 3402(p) allows employers and employees to enter into voluntary agreements to withhold income tax from wages for services performed. Election workers may request this voluntary income tax withholding by completing and giving the employer a Form W-4, Employee's Withholding Allowance Certificate.

Social Security and Medicare (FICA) Withholding

Election workers are common-law employees; however, IRC section 3121(b)(7)(E) and (F)(iv) provide specific rules for determining whether amounts paid to election workers are subject to FICA taxes.

If the election workers are covered by a Section 218 Agreement with the Social Security Administration (SSA), the terms of the Agreement will determine whether the payments are subject to FICA. Many States have excluded election workers whose pay in a calendar year is less than the Federal threshold amount ($1,600 for 2015 and $1,700 for 2016, adjusted for inflation). Some State Section 218 Agreements may specify a lower threshold amount for election workers (for example, $50 a calendar quarter or $100 a calendar year.) Social Security and Medicare taxes apply from the first dollar paid if:

- An election worker is paid the threshold amount or more, or
- The State's Section 218 Agreement does not have an election worker exclusion, or
- The entity's Section 218 Agreement does not have an election worker exclusion.

To find the coverage status of election workers for each State, see the on SSA.gov.

If there is no Section 218 Agreement, the rules for mandatory Social Security and Medicare apply. Services not subject to mandatory Social Security and Medicare coverage include those performed by an election worker whose pay in a calendar year is less than the Federal threshold amount ($1,600 for 2015 and $1,700 for 2016, adjusted for inflation) per Sections 3121(b)(7)(F)(iv) and 3121(u)(2)(B)(ii)(V). FICA taxes apply from the first dollar paid if an election worker is paid the federal threshold amount or more. For example, when payments made to an election worker in 2016 meet the Federal threshold amount, $1,700, all amounts paid to the worker are subject to FICA, including the first $1,699.

If it's anticipated that an election worker may earn the Federal threshold amount or more in a calendar year, a State or local government employer may choose to begin withholding FICA taxes on the first dollar earned. If the worker then earns less than the Federal threshold amount in the calendar year, the worker would be entitled to a refund of the withheld FICA taxes. If the employer chooses not to begin withholding until after the worker earns the Federal threshold amount, then the employer would be liable for the total amount of FICA taxes due.

Reporting Requirements

Section 6041(a) applies to payments of compensation that are not subject to withholding of FICA or income tax. If an election worker's compensation is not subject to withholding of FICA tax, the Section 6041(a) reporting requirements apply to payments that aggregate $600 or more in any taxable year. Under Regulation section 1.6041-2(a)(1), compensation subject to income tax withholding is taken into account in determining whether the $600 reporting requirement applies. Government entities must file a Form W-2 for election workers who receive payments of $600 or more, even if no FICA and income tax were withheld.

Section 6051(a) requires reporting of compensation subject to either FICA tax or income tax withholding. If an election worker's compensation is subject to withholding of FICA tax, reporting is required by Section 6051(a), regardless of the amount of compensation. For example, a Form W-2 must be filed for each election worker who received payments of less than $600 that are subject to FICA taxes under a Section 218 Agreement.

IRS regulations provide that an employer may choose to use separate Forms W-2 to report employee compensation derived from separate components. Therefore, amounts paid to an individual who provides both election worker services and non-election worker services can be reported on separate Forms W-2. If the election worker is employed in another capacity with the same government entity, see Revenue Ruling 2000-6 for detailed instructions and examples. Form 1099-MISC should not be used to report election worker payments.

The following examples illustrate typical election worker situations.

Situation #1 (The Election worker position is covered by the entity's Section 218 Agreement, the election worker provides no other service to the entity and is paid at least the Federal threshold amount.)

Government entity A pays worker Y $1,700 in 2016 for election worker services. Worker Y does not provide any other service to government entity A and election workers are included in the entity's Section 218 Agreement once they are paid $1,700 or more. Because the payment made to worker Y is $1,700 or more, FICA withholding is applicable on the entire $1,700 of compensation and the payment must be reported as Social Security and Medicare wages on Form W-2 per Section 6051(a). No income tax withholding is applicable, but the $1,700 must be reported as wages (Box 1) on Form W-2.

Situation #2 (The Election worker position is not covered by the entity's Section 218 Agreement, the election worker provides no other service to the entity and is paid $600 or more.)

Government entity A pays worker Y $650 in 2016 for election worker services. Worker Y does not provide any other service to government entity A and election workers are excluded from the entity's Section 218 Agreement. Since the payment is $600 or more, the amount must be reported on Form W-2. However, since the payment made to worker Y is less than $1,700, FICA withholding **doesn't** apply and no amounts are reported as Social Security and Medicare wages on Form W-2. No income tax withholding applies, but the $650 must be reported as wages (Box 1) on Form W-2 per Section 6041(a).

Situation # 3 (The Election worker position is not covered by the entity's Section 218 Agreement but other services are covered by the entity's Section 218 Agreement, the election worker provides other services to the entity and is paid $600 or more.)

Government entity A pays worker Y $100 in 2016 for election worker services, and also employs Y in another capacity in which Y earns $1,000 (subject to income tax withholding). The election worker services of Y are excluded from the Section 218 Agreement, but the non-election services are included. The $1,000 payment is subject to income tax and FICA withholding, but the $100 payment is not. Because it made payments in 2016 to worker Y equal to $600 or more, government entity A must report all payments as wages (Box 1) on Form W-2 per Sections 6041(a) and 6051(a). Separate Forms W-2 may be used for the two types of payments.

Situation #4 (The entity is not covered by a Section 218 Agreement, the election worker provides no other service to the entity and is paid at least the Federal threshold amount.)

Government entity A pays worker Y $1,701 in 2016 for election worker services. Worker Y does not provide any other services to government entity A and the entity does not have a Section 218 Agreement. Because the payment made to worker Y is $1,700 or more, FICA withholding is applicable on the entire $1,701 of compensation under mandatory Social Security and mandatory Medicare. The payment must be reported as Social Security and Medicare wages on Form W-2 per Sections 6041(a) and 6051(a). No income tax withholding is applicable, but the $1,701 must be reported as wages (Box 1) on Form W-2.

Conclusion

Remember, compensation paid for election worker services is included in income, and may be subject to income tax and FICA taxes as well as reporting requirements.

For additional guidance on election worker treatment, see:

- General Instructions for Forms W-2 and W-3
- Publication 963, *Federal-State Reference Guide*
- Publication 15, *(Circular E), Employer's Tax Guide*
- Publication 15-B, *Employer's Tax Guide to Fringe Benefits*
- Publication 5137, *Fringe Benefit Guide, Office of Federal, State and Local Governments*
- Revenue Ruling 2000-6

More information on the treatment of election workers is available on the SSA election worker page.