

Medicare Coverage Compliance Self-Assessment For State and Local Government Employers

Introduction

Public employers have unique legal requirements for compliance with federal tax and Social Security laws. These employers need to be aware of the rules that apply to them and their workers (both employees and independent contractors); especially those related to federal income, Social Security and Medicare taxes and public retirement system obligations.

The Form 14581 series consists of seven topical employment tax Compliance Self-Assessment tools, listed below, for voluntary use by government entities to conduct self-assessments of their compliance with these requirements. The forms have fillable check box and text fields so they can be completed electronically or printed and completed manually.

For use by Federal, State and Local Government Entities

- Form 14581-A Fringe Benefits Compliance Self-Assessment
- Form 14581-B International Issues Compliance Self-Assessment
- Form 14581-D Other Tax Issues Compliance Self-Assessment
- Form 14581-G Worker Status Compliance Self-Assessment

For use by State and Local Government Entities Only

- Form 14581-C Medicare Coverage Compliance Self-Assessment
- Form 14581-E Retirement Plan Coverage Compliance Self-Assessment
- Form 14581-F Social Security Coverage Compliance Self-Assessment

The self-assessment tools are designed to help public employers identify areas that indicate potential compliance issues. They are intended to be completed by those responsible for withholding and paying employment taxes and filing required information returns. Each topic contains brief information on the law with links to IRS publications and other authoritative resources that provide more information.

Note: The self-assessment tools are intended as general guides to the most common tax issues that public employers may encounter and direct those entities to additional information as necessary. The tools are provided for general information only. They don't constitute legal advice or determinations by the IRS regarding particular tax situations and they don't cover every question that may be encountered. The sources cited should be reviewed for additional information.

Common Errors

The following common errors were identified during IRS audits of public employers:

- Totals shown on Forms 941 or Form 944 do not reconcile with totals on Forms W-2 and W-3, or between these forms and the accounting records.
- Forms W-9 and W-4 are not being used or are not being updated when necessary.
- Failure to backup withhold on payments to vendors when required.
- Failure to correctly complete or file Forms 1099.
- Failure to apply accountable plan rules to reimbursements and allowances.
- Incorrect or missing employment tax deposits.
- Failure to follow electronic filing requirements.
- Treatment of certain groups of workers as independent contractors instead of as employees.
- Failure to pay and withhold Medicare-only tax on rehired annuitants.
- Failure to include taxable noncash benefits in employee wages.
- Failure to apply correct withholding rules to election workers and public officials.

For Assistance While Completing the Self-Assessment Tools:

The following federal tax information applicable to the topics addressed in this Compliance Self-Assessment Tool is available on the IRS website:

- Tools for Federal, State and Local Governments
- Publication 15, Employer's Tax Guide
- Publication 15-A, Employer's Supplemental Tax Guide
- Publication 15-B, Employer's Tax Guide to Fringe Benefits
- Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities
- Publication 963, Federal-State Reference Guide
- Publication 1281, Backup Withholding for Missing and Incorrect Name/TIN(s)
- Publication 1779, Independent Contractor or Employee
- Publication 5137, Fringe Benefit Guide
- Publication 5138, Quick Reference Guide for Public Employers
- Government Retirement Plans Toolkit
- Governmental Plans under Internal Revenue Code Section 401(a)

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Medicare Coverage – Publication 963

- 1. Are any employees exempt from Medicare under the continuing employment exception** Yes No Follow Up

Note: Almost all state and local government employees are covered by Medicare. All employees covered under a Section 218 Agreement are covered and employees covered by mandatory Social Security provisions are covered, unless the employee meets the continuing employment exception under Internal Revenue Code (IRC) Section 3121(u). The continuing employment exception applies to an employee hired or rehired by a state or political subdivision employer before April 1, 1986, only if the employee is a member of a public retirement system within the meaning of IRC Section 3121(b)(7)(F) and meets all of the following requirements:

- The employee was performing regular and substantial services for remuneration for the state or political subdivision employer before April 1, 1986;
- The employee was a bona fide employee of that employer on March 31, 1986;
- The employment relationship with that employer was not entered into for purposes of avoiding the Medicare tax; and
- The employment relationship with that employer been continuous since March 31, 1986.

Note: The IRC also exempts employees performing the following services from mandatory Social Security and Medicare taxes:

- Services performed by individuals hired to be relieved from unemployment.
- Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government.
- Services performed by an employee hired on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.
- Services performed by a nonresident alien temporarily residing in the U.S. holding an F-1, J-1, M-1 or Q-1 visa, when the services are performed to carry out the purpose for which the alien was admitted to the U.S.
- Services in positions compensated solely by fees received directly from the public are subject to SECA (Self-Employment Contributions Act) taxes, unless a Section 218 Agreement covers these services.
- Services performed by a student enrolled and regularly attending classes at the school, college or university for which they are working, unless a section 218 Agreement covers these services. Refer to www.socialsecurity.gov/slge/student_coverage_chart.htm for the student exclusions for each state.
- Services performed by election officials or election workers paid less than the calendar year threshold amount mandated by law unless a Section 218 Agreement covers election workers.
- Services that would be excluded if performed for a private employer because they are not work defined as employment under Section 210(a) of the Social Security Act

Contact the State Social Security Administrator with any questions pertaining to the foregoing.

Comments

- 2. Are there any employees from whom Medicare is not withheld, other than those who meet the exceptions identified above** Yes No Follow Up

Comments

- 3. Does the entity employ any rehired annuitants** Yes No Follow Up

Note: Rehired annuitants are retired individuals who are rehired by their employer or another employer that participates in the same retirement system as the former employer. This includes a former participant in a state retirement system who has previously retired and who is either:

1. Receiving retirement benefits under the retirement system, or
2. Has reached the normal retirement age under the retirement system.

Comments

a. If the employer has rehired annuitants, is Social Security tax withheld and paid on those employees as applicable Yes No Follow Up

Comments

b. If yes, is Medicare tax withheld and paid on those employees Yes No Follow Up

Note: When an employee retires, the employee has terminated employment for purposes of the continuing employment exception. Thus, if that former employee is rehired, the employee will be subject to Medicare tax, even if the employee was previously exempt because of the continuing employment exception.

Comments

Notes/Follow-up

You have completed the **Medicare Coverage** Compliance Self-Assessment.