

Retirement Plan Coverage Compliance Self-Assessment For State and Local Government Entities

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)

Retirement Plan Coverage Compliance Self-Assessment For State and Local Government Entities

Retirement Plan Coverage – Publication 963

1. Does the entity have a public retirement system that qualifies as a replacement for Social Security coverage Yes No Follow Up

Note: A governmental retirement plan must meet certain minimum benefit or contribution standards to qualify as a public retirement system, and thereby serve as a “replacement” plan exempting the participants from mandatory Social Security coverage. These standards are based solely on meeting a minimum benefit level either:

- 1) Provided to (defined benefit plan) the participant, or
- 2) Contributed by (defined contribution plan) the participant.

Any person working for a public employer after July 1, 1991, who is not covered in a public retirement plan that meets the requirements discussed above and, if applicable, the defined benefit system safe harbor rules of Revenue Procedure (Rev. Proc.) 91-40, must be covered by Social Security and Medicare under the mandatory coverage provisions of Section 210 of the Social Security Act, except for exclusions from mandatory Social Security and Medicare.

For more information about public retirement systems (Social Security replacement plans), see Chapter 6 of Publication 963, Federal-State Reference Guide.

Comments

2. Is the public retirement plan offered to all employees Yes No Follow Up

If not, specify categories of employees that are NOT covered. (Specify all that apply)

Note: Employees in these categories must be covered for Social Security either under mandatory coverage or under a Section 218 Agreement.

Comments

3. Are the contributions to retirement plans subject to applicable employment taxes Yes No Follow Up

Comments

a. Internal Revenue Code (IRC) Section 3121(b)(7)(F) retirement system Yes No Follow Up

- Employee deferrals are exempt from federal income tax withholding but are subject to Social Security and Medicare taxes.
- Employer contributions are exempt from federal income tax withholding, Social Security and Medicare taxes. However, if the retirement system is not an “exempt governmental deferred compensation plan,” employer contributions are subject to Social Security and Medicare withholding as of the later of when the services are performed or when there is no substantial risk of forfeiture.

Comments

b. IRC Section 401(a) and/or Section 403(b) plan Yes No Follow Up

- Employee deferrals are exempt from federal Income tax withholding but are subject to Social Security and Medicare taxes.
- Employer contributions are exempt from federal Income tax withholding, Social Security and Medicare taxes.

Comments

c. IRC Section 457(b) plan

Yes No Follow Up

- Employee deferrals are exempt from federal income tax withholding but are subject to Social Security and Medicare taxes.
- Employer contributions are exempt from federal income tax withholding but are subject to Social Security and Medicare taxes when no longer subject to substantial risk of forfeiture.

Comments

Notes/Follow-up

You have completed the **Retirement Plan Coverage** Compliance Self-Assessment.